The meeting commenced pursuant to notice at 9:30 a.m., before the Investigative Staff of the United States International Trade Commission, Elizabeth Haines, Supervisory Investigator, presiding.
APPEARANCES:

On behalf of the International Trade Commission:

Staff:

Tyrell Burch, Legal Document Assistant
Nadiya Samon, Student Intern

Elizabeth Haines, Supervisory Investigator
Fred Ruggles, Investigator
John Benedetto, Economist
Charles Yost, Accountant/Auditor
Robin Turner, Attorney/Advisor
Renee Berry, Industry Analyst
APPEARANCES:

OPENING REMARKS:

Petitioner (Andrew Kentz, Picard Kentz & Rowe LLP)

Respondents (Eric S. Parnes, Hughes Hubbard & Reed LLP)

In Support of the Imposition of Antidumping and
Countervailing Duty Orders:

Picard Kentz & Rowe LLP

Washington, DC

on behalf of

Petitioner

    Steve Swanson, President and Chief Executive Officer,
    Swanson Group

    Andrew Miller, President and Chief Executive Officer,
    Stimson Lumber Company

    Steve Banahan, SPF Sales Manager, Pleasant River Lumber Company, Inc.

    Caroline Dauzat, Owner, Rex Lumber Co.

    Blake Sullivan, Forest Landowner, Principal, Sullivan Forestry Consultants, Inc.

    Chuck Roady, Vice President and General Manager, F.H. Soltze Land & Lumber Company

    Susan B. Hester, Ph.D., Consultant, Moongate Associates, Inc.

    Deanna Tanner Okun, Consultant, Adduci, Mastriani & Schaumberg LLP
In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:
Hughes Hubbard & Reed LLP
Washington, DC
on behalf of
Government of Canada

Colin Bird, Minister-Counsellor, Trade and Economic Policy, Embassy of Canada
James P. Dougan, Vice President, Economic Consulting Services, LLC
Kivanc Kirgiz, Vice President, Cornerstone Research
Cara Groden, Consultant, Economic Consulting Services, LLC

Matthew R. Nicely and Eric S. Parnes - Of Counsel

Mowry & Grimson, PLLC
Washington, DC
on behalf of
National Association of Home Builders ("NAHB")
Barry Rutenberg, Chairman, Arthur Rutenberg Homes
Rich Millman, President, Millman Lumber Company
Jeffrey S. Grimson and Kristin H. Mowry - Of Counsel
Steptoe & Johnson
Washington, DC
on behalf of
British Columbia Lumber Trade Council ("BCLTC")
Mark A. Moran and Matthew A. Frumin - Of Counsel

Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of
Interfor Corporation and Western Forest Products Inc.
Myles S. Getlan - Of Counsel

Baker & Hosteller LLP
Washington, DC
on behalf of
Ontario Forest Industries Association ("OFIA")
Conseil de l'Industrie forestière du Quebec ("CFIQ")
Resolute Forest Products Inc.
Elliot J. Feldman, John Burke, Michael Snarr - Of Counsel

Rebuttal/Closing Remarks:
Petitioner (David A. Yocis, Picard Kentz & Rowe LLP)
Respondents (Matthew R. Nicely, Hughes Hubbard & Reed LLP)
I N D E X

OPENING REMARKS: Page

Petitioner (Andrew Kentz, Picard Kentz & Rowe LLP) 10

Respondents (Eric S. Parnes, Hughes Hubbard & Reed LLP) 13

David A. Yocis - Of Counsel 17

Steve Swanson, President and Chief Executive Officer, Swanson Group 25

Andrew Miller, President and Chief Executive Officer, Stimson Lumber Company 30

Steve Banahan, SPF Sales Manager, Pleasant River Lumber Company, Inc. 35

Caroline Dauzat, Owner, Rex Lumber Co. 39

Blake Sullivan, Forest Landowner, Principal, Sullivan Forestry Consultants, Inc. 44

Chuck Roady, Vice President and General Manager, F.H. Soltze Land & Lumber Company 49
<table>
<thead>
<tr>
<th>Index</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matthew R. Nicely - Of Counsel</td>
<td>110</td>
</tr>
<tr>
<td>James P. Dougan, Vice President, Economic Consulting Services, LLC</td>
<td>116</td>
</tr>
<tr>
<td>Barry Rutenberg, Chairman, Arthur Rutenberg Homes</td>
<td>123</td>
</tr>
<tr>
<td>Rich Millman, President, Millman Lumber Company</td>
<td>126</td>
</tr>
<tr>
<td>Kivanc Kirgiz, Vice President, Cornerstone Research</td>
<td>131</td>
</tr>
<tr>
<td>Eric S. Parnes, Hughes Hubbard &amp; Reed LLP</td>
<td>133</td>
</tr>
<tr>
<td>Colin Bird, Minister-Counsellor, Trade and Economic Policy, Embassy of Canada</td>
<td>135</td>
</tr>
<tr>
<td>James P. Dougan, Vice President, Economic Consulting Services, LLC</td>
<td>138</td>
</tr>
<tr>
<td>Myles S. Getlan - Of Counsel</td>
<td>146</td>
</tr>
<tr>
<td>Elliot J. Feldman - Of Counsel</td>
<td>148</td>
</tr>
</tbody>
</table>
Rebuttal/Closing Remarks:

Petitioner (David A. Yocis, Picard Kentz & Rowe LLP) 207

Respondents (Matthew R. Nicely, Hughes Hubbard & Reed LLP) 215
MS. HAINES: Good morning. Thank you for coming on this very, very cold day. Welcome to the U.S. International Trade Commission's conference in connection with the preliminary phase of Anti-dumping Countervailing Duty Investigation Number 701-TA-566 and 731-TA-1342 concerning softwood lumber products from Canada. My name is Elizabeth Haines. I'm the Supervisory Investigator in the office of investigations and I will be presiding at this conference.

Among those present from the Commission Staff on my right Fred Ruggles the Investigator, Robin Turner the Attorney, John Benedetto the Economist, Renee Berry the Industry Analyst and Charles Yost the Accountant. I understand that parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones.

We also ask that you state your name and affiliation for the record before beginning your presentation or answering questions for the benefit of the court reporter. All witnesses must be sworn in before presenting testimony. I understand all parties are aware of the time allocations and any questions regarding the time
allocations should be addressed to the secretary. Are there any questions? Hearing none, we will proceed with the opening statements. Mr. Kent?

OPENING STATEMENT BY ANDREW KENTZ

MR. KENTZ: Good morning and thank you for the opportunity to be here today. My name is Andrew Kentz with Picard, Kentz and Rowe and I am here on behalf of the petitioner. I see many family faces so you are all well aware of the long history involving softwood lumber from Canada. This is the 5th round of the Lumbar dispute and each time we are here because unfairly-traded Canadian imports continue to harm the domestic industry, our mills, our workers, our forest land owners and our communities.

Ten years ago the last trade case was resolved through the Softwood Lumber Agreement or SLA which expired in October of 2015. The SLA provided a one year standstill period in which the U.S. Industry agreed not to file petitions for AD or CD relief. Despite our best efforts, we cannot come to a new agreement with Canada by the end of the standstill period in October 2016 and so here we are again.

The U.S. Industry would still prefer to negotiate an agreement though we have had no choice but to move forward with these trade cases. That is because over the period of the investigation and especially since the SLA
expired, Canadian Imports and market share have increased substantially. In the first nine months of 2016, the volume of Canadian Imports increased 30 percent when compared to the same period in 2015 from 9.6 billion board feet to 12.5 billion board feet.

Following the expiration of the SLA, Canada's U.S. market shares similarly surged from 29.5 percent in the third quarter of 2015 to 33 percent in the 4th quarter of the same year and to almost 34 percent so far in 2016. In other words, in the span of a year, Canada has taken an additional 4.5 percent of U.S. Market share.

To put these numbers in perspective, one percent of U.S. market share is enough lumber to build 22,550 new homes. Further, 1% loss of U.S. Market share is the equivalent of a closure of 2 significantly sized lumber mills. Canada's gain in market share comes at the direct expense of U.S. Producers. Despite increased demand since the housing crash, lumber prices have been trending downward since 2013. The random lengths composite price, which serves as a benchmark for various North American Species, peaked at 451 dollars in April of 2013 and fell nearly 35 percent to a low of less than 300 dollars in September of 2015. Prices today remain at levels well below those in 2013 and 2014.

Just as important, we are here today because
Canada presents a longstanding structural problem to the U.S. Softwood Lumber Industry. The Canadian Government owns the vast majority of the timber supply. To put this into perspective, the Canadian Government owns 90 percent of harvested timber while 85 percent of U.S. harvested timber is privately owned. The Canadian Government uses its ownership of timber to promote the growth and stability of its softwood lumber industry regardless of fair market principles.

Further, the strong orientation of Canadian Producers toward exports, primarily the United States means that the U.S. Industry bears the major share of the cost of Canada's unfairly subsidized timber system. The profitability of U.S. Producers has dropped significantly over the period of investigation and the industry has experienced overall declines in key trade and financial indicators including lost sales and lost revenues and mill closures.

In short, Canadian Imports have substantially impeded the Domestic Industry's recovery from the devastating collapse in the U.S. Housing Industry during the Great Recession. You will hear from those who have been injured by Canadian Imports and they will speak to the harm caused by American Sawmills, workers, forest land owners and local communities.
The Domestic Industry's overarching goal is to restore a stable market environment in which it can make capital investments essential to its future. These investments would allow the industry to grow to its natural size and provide thousands upon thousands of new manufacturing jobs without being impaired by unfairly traded Canadian Imports. Our preference is for a new agreement but if not then we must defend our rights to the trade laws. Thank you, I would be happy to answer any questions following the presentation this morning.

MS. HAINES: Thank you. Mr. Parnes?

OPENING STATEMENT BY ERIC PARNES

MR. PARNES: Good morning and thank you. My name is Eric Parnes. I'm with Hughes, Hubbard and Reed and we represent the Government of Canada and are coordinating joint Respondents' defense. Now, we recognize that this is a preliminary investigation and we recognize what that means. But here there is not even a reasonable indication of injury or threat of injury to the industry by reason of imports from Canada.

The only way the Coalition can even make a run at an injury case is my stretching reality, cherry-picking data and simply ignoring the facts. I would like to highlight some examples and suggest you ask if there is any merit to its claims: Why does the Coalition need to overreach the
way it does?

Let's start with the Coalition's arguments that Imports from Canada had an adverse impact on the U.S. Industry. I would like you to ask the Coalition about the financial data. According to the Petition, operating margin for companies representing 32 percent of production was 11 percent in the first nine months of 2016. That is up from 8 percent in the 1st nine months of 2015. The questionnaire responses suggest even better results.

The Coalition is complaining about double digit profit margins. How are some of the biggest U.S. Producers performing? I suggest that you ask the Coalition about Weyerhaeuser, the largest U.S. Producer. Just two months ago, its wood products division reported its strongest earnings since 2004. They are not the only company experiencing this kind of banner performance. You might ask why neither Weyerhaeuser or any of the other top 10 U.S. Producers is testifying here today.

The fact that every measure of U.S. Industry performance has improved following the exploration of the softwood lumber industry; how is the industry injured? The Coalition trots out data on mill curtailments but I'd like you to ask the Coalition how many of those 78 curtailments lasted longer than two weeks? Or how many of those mills actually ceased producing? Or how many of those mills
stated reasons other than imports from Canada as the cause of the curtailed operations?

For that matter, we suggest the Commission ask the Coalition why they're relying on Trade Adjustment Assistance, or TAA certifications when the Commission has made clear that it cannot rely on TAA determinations because a different standard applies. Or ask them about the Simpson Lumber Mill that closed in Shelton, Washington and you might ask them why they saw no need to disclose the fact that it was closed only after being bought by Sierra Pacific, another Petitioner not testifying here today, which is building a new and larger sawmill in its place.

The evidence of injury really just isn't there. On the key conditions of competition, the overreaching is just as dramatic. On substitutability, why does the Coalition need to resurrect the long discredited claim that softwood lumber is a perfectly fungible commodity? That position had its brief time in the sun more than 20 years ago when it was adopted in Lumber 3 only to be rejected on review. And then the staff also rejected the Coalition's position in Lumber 4 where it found imperfect substitutability between Canadian and U.S. species of softwood lumber. And the academic literature since has reported even lower elasticity of substitution.

The notion that lumber of different species
competes stick for stick on the basis of nothing but price is just fantasy.

What about the SLA? The Coalition should explain in the letters that its members signed. At the time of the SLA in 2006, including three of the companies testifying here today, they represented at the time that the SLA removes any alleged material or injury or threat of material injury.

Of course there was a disclaimer that they would remain in force and effect only during the SLA, but that's really beside the point. The Commission is entitled to know if the U.S. Producers meant it when they represented that trade under the terms of the SLA was not injurious trade. And what about volume? The Coalition is relying on volume data from the U.S. Census that are well-known to be understated compared to the more accurate statistics Canada Data. The Commission will not see adverse volume effects in either set of data but we will explain why the Statistics Canada Data are more reliable and I would like you to ask why the coalition sees the need to rely on overstated data.

Then there is price. The coalition argues that U.S. Products compete on price and that there has been downward pressure on prices caused by imports from Canada but the sources they site were complaining about prices while prices were increasing. The fact of the matter is
that lumber producers are price takers, not price leaders.
In this market, there is no way that they can extract higher
prices and ask the Coalition why they need to resurrect the
fiction that they, in fact, denied in the
past.

As far as the proposal for pricing data that the
Commission collect, it's actually the opposite of
overreaching. The Coalition has requested pricing data
calculated to avoid price comparisons and the response has
only reinforced the lack of direct competition. So we hope
that you'll ask the Coalition to explain these things and
frankly we don't think that the answers will support an
affirmative determination. Thank you.

MS. HAINES: Thank you and we'll have the first
Panel please come.

STATEMENT OF DAVID YOCIS

MR. YOCIS: Good morning. My name is David Yocis
of Picard Kentz and Rowe here this morning on behalf of the
Coalition. We are very pleased to have six industry
witnesses here this morning who will provide a variety of
perspectives from across the industry and from across the
country from Oregon to Maine, to Florida.

Most of our presentation this morning will be
their firsthand description of the material injury that is
being caused by unfairly traded Canadian softwood lumber
imports but first I would like to begin by briefly setting
the stage for their testimony and walking through the
fundamental facts about this case and why they support an
affirmative determination.

Allow me to begin with a quotation. "The lumber
trade has been subjected to a competition based on cheap
stumpage values which has been disastrous to investments and
profits and further, from the fact that it rendered market
values uncertain, produced conditions which are prejudicial
to lumber dealers and lumber manufacturers." The authors of
this quotation which is from an open letter to the lumber
industry in the United States, urged lumber producers from
around the country to come together and consider what to do
about these prejudicial conditions that had harmed their
investments and their profits that they recognized were
caused by imported softwood lumber from Canada produced from
cheap government-owned timber.

This meeting was to take place at the Grand Hotel
in Cincinnati, Ohio and the proposed date of the meeting was
December 15, 1896. One day and one hundred and twenty years
later the Grand Hotel in Cincinnati has long since passed
into history but we are here today dealing with what is
fundamentally the same issue and it is not difficult to
understand why this issue has been a perennial problem in
our otherwise generally harmonious relationship in trade
with Canada.

The production of softwood lumber has changed dramatically since the 19th Century but the fundamentals of the lumber market are constant. First, softwood lumber of a given species, size and grade produced by any one company or in any one country is virtually indistinguishable from softwood lumber of the same species, size and grade produced by another company or in another country. Producers therefore compete primarily on price.

Second, lumber is a derived demand product. Demand for lumber is driven mostly by demand for residential housing as well as residential remodeling and repairs. Lumber is a small fraction of the total cost of building a home and, in fact, a decreasing fraction of the total cost of building a home and so demand for lumber is relatively inelastic. People do not go out and build more homes because the price of lumber has fallen.

Third, the supply of lumber is also relatively inelastic. It takes decades to grow trees for harvest and the need for sustainable harvesting practice limits how much supply can be increased in response to higher lumber prices. Because supply and demand are inelastic, small changes to supply or demand have large impacts on price. In fact, lumber prices are quite volatile and changes of 10 and even 20 percent in both directions over a period of just a few
weeks is not uncommon.

Fourth, while Canadian imports have for decades accounted for between 25 and 35 percent of total U.S. Lumber Consumption, third country imports are small, generally one or two percent of the total market. Competition between U.S. and Canadian lumber is therefore largely zero-sum, if one gains, the other loses.

Fifth, Canada normally exports the majority of its softwood lumber production to the United States and continues to do so today.

Sixth, while 2/3rds of the cost of producing softwood lumber, at least in the United States is accounted for by the price paid in open and competitive markets for raw materials, the longstanding Canadian tradition of public ownership of commercial forests means that in Canada the price and availability of the key input to softwood lumber production is determined by government policy rather than by markets.

The resulting differences and the relative cost structures of Canadian and U.S. softwood lumber production dramatically effects competition between Canadian imports and Domestic Production in all phases of the business cycle. Not necessarily in the same way at any given moment but always in some way and almost never to the benefit of U.S. Producers.
So the playing field in this industry has not been level for a very long time. The period of investigation before today's Commission is not any different. The last set of trade cases, as Mr. Kentz mentioned earlier was resolved with the entry in the Forests of U.S. Canada Softwood Lumber Agreement in October of 2006. Pursuant to this agreement, the U.S. Agreed to forego its right to bring trade cases for the duration of the agreement and for one year after its exploration in return for which Canada agreed to impose export measures, a mix of export taxes and export quotas when lumber prices were below a certain level.

The first years of the SLA saw a housing crash that triggered a financial crisis with widespread effects on the U.S. and Global Economy. For the Lumber Industry that effect was catastrophic. From 2006 to 2009 U.S. apparent consumption fell by more than 50 percent and lumber prices fell by nearly as much. During this period and in the first early years of a hesitant recovery, the Softwood Lumber Agreement did impose some restraint on Canadian lumber imports.

But in 2013, prices were high enough that the export measures were relaxed and then lifted. This remained true for most of the rest of the Softwood Lumber Agreement but since 2013, while lumber demand has continued to
improve, albeit slowly, prices have fluctuated but generally
trended downward. Current prices are well below the levels
of 2013 and 2014 notwithstanding higher demand and that
prices have declined even as total U.S. apparent consumption
has increased suggests that supply in the market is
increasing even faster in demand.

The public data on production, imports and
exports as we set forth in our Petition and will update with
the most recently released data in our post-conference
submission, the public data demonstrates that it is Canadian
Imports and not U.S. Producers who have been the primary
cause of that increased supply and that is especially true
of 2015 and in 2016 after the Softwood Lumber Agreement
expired. So from 2013 to 2014 apparent U.S. consumption
increased by nearly 3 billion board feet.

Of the incremental supply in the market, U.S.
Producers supplied 52 percent of the increased demand.
Canadian Producers supplied a disproportionate 41 percent
and the market share of imports increased from 28 to 29
percent. Then from 2014 to 2015, apparent U.S. consumption
increased again by 1.5 billion board feet but this time more
than 1.1 billion board feet or over 70 percent of the
increase was accounted for by Canadian Imports.

Only 200 million board feet or 12 percent of the
increased demand was supplied by U.S. Producers and the
market share of Canadian Imports again increased now to 30 percent. In the first three-quarters of 2016, apparent U.S. consumption increased by nearly 2.9 billion board feet over that same period in 2015. Nearly three billion board feet or 74 percent of that increase was supplied by Canadian Imports. Only 20 percent of the incremental supply came from Domestic Producers and Canada's market share increased to 33.9 percent.

The story of this industry over the past few years therefore, especially since the expiration of the agreement is one of an industry that was devastated by the Great Recession, is trying to find its way back to normal in a housing market that is still, despite the increases of the last few years and is now seven years into a recovery and yet still far from robust.

In an industry that is unable to find its way back because Canadian Imports, which are now free from any border restraints are capturing an ever growing share of the market, are taking the large majority of increased demand and through an ever increasing supply are putting pressure on prices. The industry finds itself today to be sure, not at the bottom of the business cycle, but stuck far below where it should be, underutilizing our timber resources, not bringing jobs back to communities, unable to justify the investments needed to remain competitive.
We have heard in the past, we heard briefly already this morning and I am sure we will hear in more detail later, that customer preferences for certain species of lumber limits substitutability between Canadian Lumber and at least some U.S. production, especially of Southern Yellow Pine.

As our witnesses will explain, Canadian Imports compete directly with Southern Yellow Pine in many applications, not all to be sure, but many. Certainly enough to have a negative impact on Southern Yellow Pine producers and on Southern Yellow Pine prices generally. In fact, it is difficult to imagine how Canada could increase its market share so quickly and take such a large share of increased U.S. consumption without capturing at least some customers that otherwise would be buying Southern Pine.

We have also heard in the past and will likely hear again that lumber is really just a pass-through industry and that the real injurious effects of Canadian Softwood Lumber if any are on U.S. Timber Producers, not on producers of the domestic like product, that that was the Respondents' principle argument in number 4.

As our witnesses will explain, the relationship between lumber and timber markets is complex, at least to the United States where we have timber markets that are open and competitive and in fact increasingly open to
international competition. As a general matter in this case as in the past, the evidence establishes that lumber producers and timber producers are both negatively impacted by unfairly traded imports.

How much of the injury falls directly on U.S. Lumber Producers and how much can be passed through to timber producers through reduced prices that U.S. Lumber Producers would pay for their timber is a complex matter and it depends on a variety of factors at different stages of the business cycle.

The short answer is that lumber and timber markets are deeply interrelated. Lumber producers need a healthy timber supply and timber owners need customers when the time comes to harvest their trees. Over time, injury to either industry could only cause harm to both. In terms of how Canadian Imports have specifically impacted the U.S. Lumber Industry, our witnesses this morning can tell you much better than I can, how Canadian Imports have affected their businesses, their workers and their communities and so I would like to turn this presentation over to them.

STATEMENT OF STEVE SWANSON

MR. SWANSON: Good morning. My name is Steve Swanson and I am the president of Swanson Group, a family-owned company in Glendale, Oregon. I am also the former chairman of the U.S. Lumber Coalition. Swanson Group
produces both lumber and plywood, not hardwood plywood. You
heard about that last week, but regular plywood. We employ
650 people in total operations. Our lumber is mostly
Douglas Fir, which competes directly with Douglas Fir, Hem
Fir and SPF Lumber from Canada.

These species are interchangeable which is
demonstrated by the specification requirements set out by
the American Lumber Standards Committee and the Canadian
National Lumber Grading Association. Those groups are the
respective national authority on setting structural
qualifications for each of the grades and their standard
grading rules for species of lumber on both sides of the
border are virtually identical.

We have been talking about the injurious effect
of subsidized Canadian lumber on U.S. Producers since the
Reagan Administration and we find ourselves in front of the
Commission once again seeking relief. Price volatility in
the industry has resulted in a long-term and sustained
negative impact on U.S. Producers. Canadian Imports of
lumber are a significant contributor to this volatility.

I can tell you that the key to running a sawmill
is a good source of competitively priced logs because logs
represent the single largest cost in the production of
lumber. The Canadian Producers however are assured of a
steady supply of logs that are sold at below market prices
by the Provincial Governments. In contrast, U.S. Producers
are subject to normal market conditions for both
availability and price of logs.

The guaranteed flow of below market logs allows
Canadian Producers to maximize production for export to the
United States in both good times and bad times and
experience has taught me this situation is particularly
devastating to U.S. Producers in down markets. The influx
of Canadian lumber imports through the recession and during
the recovery has had a tremendous negative impact on the
market.

At Swanson we are selling lumber today at the
same price as 1977 when I joined the business. We are
forced to compete only on price where the Canadians always
have an upper hand due to their low cost of production. For
example, we lost the white fir stud market in Phoenix,
Arizona; a large and growing residential market because
buyers were able to purchase cheaper SPF from Canada which
they had never used before.

During the Great Recession, we could not operate
at capacity. For example we were forced to eliminate shifts
in our mills. It is particularly difficult for a
family-owned company like ours to make business decisions
that lead to lay-offs in our communities. In Glendale
alone, which has a population of 800, we employed 150 people
in our lumber mill so you can imagine that even a small
layoff resulting from market conditions by unfairly traded
Canadian Imports causes ripples throughout the community.

The flood of Canadian lumber is clearly
problematic but its impact is exacerbated by another issue,
the offshore demand for logs. In the U.S. Market, lumber
producers must compete with the export demand for logs
however Canadian Producers, particularly those in DC do not
face this competition due to their legal restrictions on the
export of logs.

Competition due to offshore demand for logs was
particularly challenging for Domestic Industry in 2014 due
to the rise in purchase of U.S. logs but not Canadian logs,
by China. This is a new issue, one that was not experienced
by the industry in Lumber 4. Just as we would like to be
able to purchase logs from Canada, we would like to purchase
the logs that are currently being exported out of the U.S.
Pacific Northwest but the price of lumber does not allow us
to compete with the offshore bidders for these U.S. logs.

Although we had a slight reprieve after 2014, it
has become a major issue again this year resulting in a
cost-price squeeze. The cost of our raw materials is
increasing but we cannot pass it on to the consumers due to
our head-to-head price with subsidized Canadian Producers
who do not confront the same market conditions affecting the
price of the logs. Despite the struggles we did begin to
make some investments when prices improved in 2013 and 2014
but a lot remains to be done throughout the industry.

Recovery from the financial crisis is slow. Most
of our investments come after long durations of deferral.
Simply put, like any prudent business we are recovering from
the past to try to build capital for the future. While we
have been able to make some investments to improve our
mills, they are contingent on expectation of an adequate
return. An unfairly subsidized lumber from Canada keeps us
from generating a sustained margin over the business cycle.

Canadian Imports destabilized the market, forced
closures during economic downturns and hold down profits
that are needed and improve markets to sustain operations to
the business cycle. We are always impacted by unfairly
traded Canadian imports that in turn inhibits our ability to
make investments. As an active Board Member of the U.S.
Lumber Coalition, a lumber mill owner and a member of our
great community in Oregon, I understand too well the impact
of the massive flow of subsidized lumbar from Canada. This
is why trade relief includes a full offset of the unfairly
traded imports which we did not have under the SLA is the
only way the U.S. Industry can truly recover from the Great
Recession and foster an investment environment where the
industry can grow to its full potential to serve the U.S. Market. Thank you for your time and attention. I will be glad to answer any questions.

STATEMENT OF ANDREW MILLER

MR. MILLER: Hello, my name is Andrew Miller. I am the CEO of Stimson Lumber Company. We are a sixth generation family business operating six saw mills in western Oregon and northern Idaho, with timber land holdings in the same region. We employ 800 people in these communities, and I'm one of the largest U.S. producers of construction-grade stud lumber sawn from Douglas fir, hemlock, SPF and white fir timber.

Our largest customer is the Home Depot. We are one of the Home Depot's largest stud vendors nationwide. We sell to nearly every Home Depot store in America. My experience in the market has made one thing clear: wood is wood. Whether it is Douglas fir, hemlock or SPF, construction grade or specialty products, the price structure for wood is the same, and when Canada floods the market with lumber it pulls down the price structure for all products.

Canada's system insulates its lumber producers from these market conditions by granting them tenure to allow supply for a given saw mill, and linking the price of timber to the price of lumber. This allows them to maintain
profitability and to continue their production and export of lumber despite price drops, which in turn further floods the market.

In contrast, U.S. lumber producers must contend with variable prices for lumber, and markets for lumber that force them to curtail their own production and defer investment in wheat markets, and reinvestment and expansion in good markets. In the Pacific Northwest, this is the case regardless of species. The price of stud species are similar and move in tandem because they are interchangeable per building codes in the construction of homes and other structures.

The same price structure and pressures apply to specialty products such as solid sawn timbers and long length dimension. These are custom products, but they are produced from the same logs as construction grade studs, and are subject to the same interchangeability by both consumers and producers.

This means, for example, that coastal British Columbia's mills that saw Douglas fir to serve the Asian market, then periodically and regularly dump solid sawn beams and all length dimension lumber in the U.S. when Asian demand goes slack.

The impact from this behavior is especially severe for specialty producers, because we have a
particularly thin market. When Canada over-produces the price drops, but there is no corresponding increase in demand. Instead, demand is saturated for months. U.S. producers have no choice but to curtail our operations. Even if we were to build up our inventories of these specialty products, we risk degradation of those products while waiting for the market to clear, and once demand does reappear we have to compete with low-price offers from Canada.

Our customers are aware of this cycle and I have seen them hold back on purchases for months at a time, in anticipation of the inevitable cheap pricing from Canada. My company cannot add operating hours or employees in this environment, even though we have both the capacity and desire to do so. Canada's harmful effect on the overall price structure for lumber is also evident in our experience with the Home Depot.

Stimson is fortunate to have an agreement in place, for example, by which we are the sole stud suppliers, with limited exceptions, for the Home Depot Chicago market. The pricing for our agreement is based on random lengths SPF stud pricing, the premium added for our supply commitment. Random length prices reflect open market transactions, but those transactions are always subject to Canadian price pressures because buyers are negotiating for construction
grade products based on offers from various regions, including Canada.

The agreement is generally good for business, but our commitment to supply a large volume of product to our customer does leave us vulnerable to Canadian-driven price decreases. When the prices for studs dropped in 2015, Stimson lost millions of dollars on its sales to the Home Depot because our mills do not have the option of curtailing production until prices recovered. Had we done so, we would have saved on production cost and reduced losses, but we would have lost our agreement and market share with Home Depot.

Again, wood is wood and what Canada does in one market will inevitably impact the entire lumber price structure. I also want to touch briefly on the issue of federal timber supply. Put simply, an increase in federal timber supply is highly, highly unlikely for political and legal reasons, and regardless would not alleviate the current conditions facing U.S. producers.

U.S. producers compete for timber against export markets in China, Japan and Korea, and against plywood mills and engineered wood products mills, all of which pay premium prices for the same logs Stimson saws into studs. Even if the price of timber were to decline with an increased federal supply, private timber suppliers can respond by
increasing their sales to Asian markets or withholding their
products from the market until prices recover, which is the
behavior we saw in 2009 and 2010.

Either way, the resulting availability and price
for timber remains a jump ball for lumber producers on a
daily basis, and disconnected from the lumber prices that
we are able to obtain. Canadian producers on the other hand
do not have to compete for timber against the export market
or against competing wood product producers, or against each
other for that matter, because they have guaranteed tenure
for their timber supply. Their system also links their
timber prices to lumber prices, which guarantees a profit in
all market conditions.

The result is that Canadian producers can follow
the market all the way to the bottom, something that U.S.
producers cannot do no matter how much federal timber
supply is available. Last year, Stimson operated well below
its production potential as a direct result of Canada's
repeated market surges. I cannot invest in fixed capital,
working capital or additional employees to expand output to
potential, because the market for all wood products remains
too risky.

I am tired of explaining to my employees that
their hours have to be cut and curtailed yet again, because
Canada continues to flood our markets, driving prices down.
Although we are fully capable of competing in a fair market, we cannot compete against a system that depresses the entire price structure for wood, while remaining immune from the consequences of its actions. Thank you for your time today.

STATEMENT OF STEVE BANAHAN

MR. BANAHAN: Good morning. My name is Steve Banahan. I'm the sales manager for Pleasant River Lumber in Jackman, Maine. Pleasant River is a 100 percent U.S. family owned business, with four generations of experience in the forest products industry. Our mills produce over 225 million board feet of spruce dimensional lumber and Eastern white pine annually. Our customers all along the eastern -- for customers all along the Eastern seaboard.

I have 35 years of experience in the industry. I worked for Moose River Lumber for 27 years before Pleasant River acquired it in February 2015. Our mill is situated just 15 minutes from the Canadian border. A number of Canadian mills are located right across that border. In terms of softwood lumber, we are essentially a single market. We sell the same species, share the same customers and have the same sales and shipment terms.

In other words, we're talking about an apples to apples comparison between Pleasant River and Eastern Canadian mills. Lumber is generally sold like this. Customers will send a request for quotation by email or by
phone to five or ten saw mills and wholesalers, with the same request and shipping destination. The customers' decision-making process is typically based on price, quality and shipment terms, in that order.

For example, customers regularly call to request a two by four delivery without specifying a particular mill, or list a few mills that they would be satisfied with. That is because this is a market where species are fully substitutable and price is the number one factor in the customer's decision. This is what I've observed over the past 35 years. Customers will then give us the go-ahead or tell us they went for another mill's offer. They almost always give us the competing mill price. That is how I get consistent feedback on lumber quotes.

It is part of the normal course of business. Depending on our relationship with the customer, they will sometimes give us the opportunity to meet the price. That's what we call having a last look. That is one of the ways to realize the impact of cheaper Canadian spruce pine fir species or SPF on our sales over the years.

In terms of pricing, it fluctuates from one call to the next. I send out a price offering on Monday and we adjust all week depending on supply and demand. I therefore get a good picture of where prices stand at any given time, whether they're from U.S. mills or Canadian
mills. We're all competing for the exact same market, so price is usually what makes or breaks the sales.

We ship approximately 30 percent of our lumber by rail and 70 percent by truck. Northern Canadian mills ship mostly by rail. That is how they access the Southern U.S. market. The further south they ship, the higher the percentage of rail transport. We ship all down the Eastern seaboard from Maine to Florida. So do the Canadian mills 15 minutes up the road. As a main mill, we essentially share the same market as Quebec mills, and also compete with Ontario, the Maritime Provinces and British Columbia.

That's because SPF species are perfectly interchangeable. We are mostly competing on price.

Canadian mills have no problem selling in the exact same U.S. markets as their timber costs are so low. Pleasant River takes pride in producing a high quality lumber, but with market-based timber costs being what they are for us, compared to what they are 15 minutes up north, our margins are even tighter because of our quality-driven approach.

Fair competition is all that we ask for, but the current system in Canada is hurting us. It's having a real impact on our workforce, on our sales and our ability to invest. Mills on both sides of the border sell in the U.S. south because both SPF and southern yellow pine, or SYP, can
be used in most structural framing applications.

For example, any condo project along the Eastern seaboard or in the south will typically list three or four different species, and then pick the most cost-effective bid. Southern yards will usually stock both southern yellow pine and SPF. I can attest to the fact that we regularly compete and lose sales to southern yellow pine, especially when we start reaching into North Carolina, South Carolina and Georgia.

The Canadian mills 15 minutes from ours will be facing similar issues if their production costs were similar. Our company also produces eastern white pine, which is the type of wood that is used for non-structural purposes, in flooring, doors, molding and window frames as examples. We're in head to head competition with eastern white pine from Quebec and Ontario. It's difficult to match their prices because of the cheap logs they can source on public lands.

So in other words, all the species we produce are in head to head competition with Canadian lumber, and we are losing. Canadian mills compete in exactly the same markets as we do, reach as far south as we do. I've personally been able to record a number of sales lost to Canadian competition in my capacity as sales manager for the past 30 years. But these past years have been particularly
worrisome, as Canadian supply has been outpacing demand.

Nearly all our lost sales are due to price differences, regardless of where the sale is being made or the species in question. I've been processing lumber a stone's throw away from Canadian mills for the past 30 years, so I know we're essentially operating under similar market conditions and in all regards except for the price of their logs. Thank you for your attention. I'll be happy to answer any questions.

STATEMENT OF CAROLINE DAUZAT

MS. DAUZAT: Good morning. My name is Caroline Dauzat and I am one of the owners of Rex Lumber. We are a fourth generation family owned and operated company that produces southern yellow pine dimension lumber. My great grandfather started several mills in the early 1900's that failed, and finally Rex Lumber in the 1920's that succeeded.

We've been in this business ever since, today we have three saw mills in three different locations: Bristol and Graceville, Florida and Brookhaven, Mississippi. In Brookhaven, we are one of the only major manufacturing industries in town. The story is even more urgent than Florida. Everyone knows the Florida coast is booming, but the rural areas are not. These are forgotten areas.

In Graceville and Bristol, other than prisons we
are all those communities have. In the 50's, they called Graceville the smallest town with the most millionaires, and it was the smallest with a Cadillac dealership. But it's desolate now. There's hardly any industry left. In Bristol, there's our mill plus an OSB mill down the road in Hosford, Florida. That's pretty much it.

These towns depend on us for the property taxes we pay and the payroll that supports our entire community. We try to help our communities by utilizing local services as much as we can, such as machine shops, welders, auto parts, hardware stores, gas stations and the like. We provide scholarships to several of our local high school students, so they are able to attend our community colleges, and we try to get in front of the kids and their parents and get them interested in manufacturing as well as community service.

People rely on us for the jobs we provide, and also for the good that we do, but subsidized Canadian lumber makes it harder for us to do these things. Canadian wood affects us. We compete against it head to head in the farming market and in the truss market. Currently, around 50 percent of our wood goes to these two uses, so that's a big part of our business.

We've lost a lot of that business over the past three years because of subsidized Canadian lumber. It has
taken away one of our best customers, a truss manufacturer in the Midwest. In 2013, this customer purchased a lot of wood from us, almost seven million board feet. In 2014 and 2015, sales declined over 80 percent. In 2016 year to date, they have purchased about 570,000 board feet. That is a 91 percent decline.

We know they quit buying from us because they switched to cheaper Canadian wood. They told us. It came directly from their mouths. Canadians will say that SPF doesn't compete with my company's product, southern yellow pine, but that's simply not true. I see competition between the two species every day. Earlier this year, I saw it in the framing market, as Rex Lumber tried to help out our community.

Rex has donated to Habitat for Humanity in nearby Walton County for the past four years. We usually donate wood and they use our lumber to frame the houses. This year, Habitat in our home county of Jackson asked us to sponsor an entire house. We were more than happy to do it, and we agreed that we would donate the lumber and cover the rest of the sponsorship in cash.

Well, the Habitat people went out and just purchased the lumber at a retail store instead. I was pretty disappointed, but I didn't know until I went to the site that the lumber they bought was Canadian. That was
like a dagger in my heart. Our Graceville mill is one mile
down the road. The lumber that Habitat used was from a mill
over 3,000 miles away.

Habitat for Humanity has used our wood to build
houses in Walton County for the past four years. Canadians
will say that spruce and southern yellow pine are
different, but that they aren't substitutable because of
small differences. But that is inaccurate. Professional
builders and those of us in the lumber business know that
any differences are minor, and just don't matter that much.

Southern yellow pine that isn't used for farming
to trusses gets treated so it can be used in decks, ground
contact and exterior work. Treated southern yellow pine
doesn't compete head to head to spruce pine fir, but we
still see the effects of Canadian competition in this
market. Because Canadians flood the framing and truss
markets, more southern yellow pine chases after the
remaining treated segment of the market.

This means prices are lower for treated lumber,
and that squeezes our business just as much as head to head
competition does. Right now, the market in the south is
better than in other parts of the U.S. Profitability is up
at the moment. That's true, but that's because the current
market is an anomaly.

During the crisis, many mills closed or went
bankrupt. It felt a little bit hopeless. Rex made layoffs for the first time since the Great Depression. Even though the market is up, there are fewer mills to buy all the timber that no one harvested during the recession, and that timber is now hitting the market.

We've got relatively low log cost at the moment, but it won't stay that way for long. My brother, sisters and I own Rex Lumber Mill, and we are looking to grow our business. So far, we've done that by acquiring bankrupt mills when they come up for sale. We would like to expand in a more rational manner, but it's difficult with all the market uncertainty and the price Canadian lumber imports create, in good markets and bad.

In a down market, we expected to curtail our production while Canadians turn out a steady supply of wood. In 2009, they did just that and they'll do it again in the next downturn. Wood just keeps coming down from Canada. It makes a bad market just horrible. But even in up markets, Canadian lumber depresses our prices. Like I said, they just keep pushing out subsidized wood.

This causes a lot of instability, even when we're in the good part of the business cycle. That means companies in the south hesitate to invest and expand their operations. Right now, with the market relatively good, most businesses are just now making the capital improvements
for the first time since the crisis.

While profitability may be up, those profits go directly towards investments that we should have been able to make years ago. As I said, my family has been in this business for over 100 years. I know what unfairly traded Canadian lumber does to us. Particularly in the past year, we've seen damage in the markets where we compete head to head and in our other markets.

But it's not just this last year. They repeatedly flood the market, especially when we were most vulnerable. It's been making it harder for us to invest in our company and in our communities. Resolving this issue is vital to our industry, my family's company, our employees and our communities. Thank you for taking the time to listen to me today. I'll be happy to answer any questions.

STATEMENT OF BLAKE SULLIVAN

MR. SULLIVAN: Good morning. Thank you for the opportunity to speak with you today. My name is Blake Sullivan. I am a third-generation timberland owner from Georgia, and a consultant to other private landowners.

My grandfather started a sawmill in 1932, which he ran successfully until he sold it just prior to his passing in 1979. So I've been around sawmills and timberland all of my life. You see, it's in my blood.

I hold a Master's Degree in Forestry from Duke
University, and have held leadership roles in the Georgia Forestry Association and the Forest Land Owners Association. I have been awarded each organization's highest awards, including being named National Land Owner of the Year by the Forest Land Owners Association.

In addition to managing my family lands, I work for a wide variety of private clients, from former President Jimmy Carter, to small farmers whose families have owned the land for generations.

I am here today to speak about the timber supply conditions in the South, and why any current profits for Southern lumber producers will inevitably give way to long-term volatility and losses in the face of unfairly traded Canadian softwood lumber.

Right now we have an overhang of timber supply that means lower timber costs for our Southern lumber producers, but those conditions are unusual and temporary, because of competition from dumped and subsidized Canadian lumber which has severely damaged our Southern lumber producers. Southern landowners are not able to get a price for their softwood timber that would allow them to invest in continued productivity of their land, and Southern lumber producers are not able to invest in their mills in a way that would allow them to maintain profitability once the overhang of timber disappears.
The Southern United States is the wood basket of the world. My State of Georgia has over 24 million acres of forest land. Our primary tree species are Southern Yellow Pine. These are the trees that at maturity are sold in the open market to produce softwood lumber, or other wood products.

Southern Pine takes about 25 to 30 years to mature from the time of reforestation until harvest. I am proud to say that I have—-that we have more timber growing in Georgia today than since the 1930s.

I personally have caused many millions of trees to be planted. Landowners harvest, manage, and reforest their lands in response to economics and market forces. The law of supply and demand is fundamental in a capitalist system, and forest landowners react to these changes over time.

Landowners must have a long-term view. You see, most of the trees that I plant today will not mature until after I die. Landowners make long-term decisions in reaction to short-term market decision—-market conditions.

Canadian lumber producers operate in a fundamentally different environment. You see, the Canadian system largely insulates its timber market from conditions, and as a result assures its lumber producers of an ample supply of low-cost subsidized timber regardless of those
This distinction has sharp consequences for both the timber and the lumber markets in the U.S. because the response by U.S. timberland producers to short-term market conditions will affect raw material costs and profit margins for U.S. lumber producers over the long term.

This is exactly what we're seeing in the South. During the Great Recession of 2007 to 2009, local sawmills cut prices they were willing to pay for soft-timber trees in response to lower demand for softwood lumber.

Landowners reacted to that by refusing to sell their trees and letting them grow until they could get a better price. In response, we had a buildup of timber in the South, including pine used to make softwood lumber.

This worked in the short term. However, expenses such as property taxes, management costs, and other expenses continued to accrue. With little to no revenue coming in, many landowners have been forced to sell off their supply of timber just to make ends meet.

This has translated into relatively low timber prices for many Southern lumber producers today. We do have some regional price variability. For example, Coastal mills have fewer supply options than Inland mills, and may bid up the price of timber available in that area. But overall, soft-timber quality trees in the South are selling for under
$30 per ton on the stump, which is just half of what we saw from the peak prices of 1997.

Those prices have allowed lumber producers to make higher profits in the last couple of years, even though their production volumes have been held down by Canadian import competition.

But make no mistake, these conditions are temporary. We already saw significant ownership consolidation during the Great Recession when many owners could not make enough revenue to justify holding onto their land. And as timberland owners continued to struggle to make a return on their forest, they are mitigating their tax burden by granting conservation easements, and entering into public/private partnerships.

These arrangements mean that landowners given up their right to use the land, and lose their incentive to manage the land to maximize forest productivity. These conditions will intensify if Canadian imports are not subject to fair trade remedies.

All of this has long term and lasting impact on the softwood timber supply available to Southern lumber producers, because Southern timberland owners are making long-term decisions to shift their forests into less productive, or even nonproductive uses.

You heard earlier from my colleague who explained
that U.S. lumber producers compete on the world market for both timber and lumber. Canadian lumber producers compete only on the world market in selling lumber, never for buying timber, which unfairly protects their profitability.

As a temporary timber supply overhang in the South disappears, the Southern lumber producers will face the same competition for logs that we see elsewhere in our country. This means lower or vanishing profits and missed investment opportunities for our lumber producers over the long term.

I appreciate your time and attention to this matter, and am happy to answer any questions you might have.

STATEMENT OF CHUCK ROADY

MR. ROADY: Good morning. And despite the name tag, my name is actually "Chuck" Roady. I'm not sure where the "Y" came from.

(Laughter.)

MR. ROADY: But I can guarantee you my friends on the BC side of the border will say, "So, Chucky, how did your testimony go?"

(Laughter.)

STATEMENT OF CHUCK ROADY

MR. ROADY: My name is Chuck Roady and I'm the Vice President and General Manager and a board member of F.H. Stoltze Land and Lumber Company. We are the oldest
privately owned lumber company in Montana, now in our sixth
generation dating back to the early 1900s.

We operate a small- and a large-log sawmill, a
wood biomass power plant, and own about 40,000 acres of
timberland near Columbia Falls in the very northwest corner
of Montana.

We have about 120, 130 employees, along with
about 80 to 100 logging and trucking contractors who all
rely on us for their livelihood.

We have been involved in the softwood lumber
business since the 1980s. So this is not a new issue for
us, and it's very simple in my mind. The injury to the U.S.
lumber industry from subsidized Canadian timber has been and
continues to be very real.

When you are located 40 miles from the
International Border, you see significant volumes of lumber
come across the border on a daily basis. I watch as many as
30 cars, rail cars of lumber, Canadian lumber, go by my
sawmill every day on the mainline of the railroad.

We continually watch the incoming Canadian lumber
flood our markets while we struggle to sustain our own
operation. Canadian producers sell the same products and
the same species that we do at Stoltze. The species we
harvest and we saw in our mill, Douglas Fir, Larch,
Engelmann Spruce, Lodgepole Pine, and the Alpine Balsam Fir,
their policies, and they're utilized just across the border.

The only differences are the policies and the systems in which the timber is sourced to the mills and the prices we pay for that timber. The Canadian Government system provides their lumber mills with a steady, reliable stream of cheaper logs, while in contrast U.S. producers must purchase their timber and logs in a market that constantly fluctuates in terms of availability and price.

These are very distinct and significant differences in the systems between the two countries. It is the reason why Canadian mills are able to thrive in good markets and survive well through difficult market periods, while U.S. mills are able to capitalize—are not able to capitalize from the full benefits when we have good time markets, and we're crushed in the bad-time markets.

This fundamental difference in the two systems is the reason that Canadian mills can invest and grow capacity while the U.S. industry declines. My neighbors to the north of the border do not have to constantly worry about procuring sufficient timber to operate their mills. But that very concern is what keeps me up late every night.

Stoltze formerly owned and operated mills in Dillon and Darby, Montana, and Sigurd, Utah. They are all now closed. We simply did not have the same access to the
logs and timber, particularly not government-subsidized logs, as do our Canadian counterparts.

We would love to be able to purchase timber under that same type of system as our Canadian competitors, and they're just up the road from us. However, we have very diverse systems with dynamic differences in the amount we pay for that timber.

You are most likely going to hear from our northern neighbors to discuss the impact of the Mountain Pine Beetle in BC and Alberta over the last 10 years, and it's real. They may even suggest that their timber supply going forward will be more constrained than it has been in the past.

Well I am very familiar with Mountain Pine Beetle epidemics and the manufacturing of Beetle Kill Wood. We have experienced our own such epidemics in the 1980s and '90s in Montana, and the rest of the inter-mountain U.S. West.

Our Lodgepole Pine stands turned yellow, then orange, and finally gray. But rarely did we get a break in stumpage that we paid for that timber, or allowed the harvest of additional volumes on our federal forest lands in order to salvage those bug-killed trees.

We harvested and processed as much of the beetle-killed wood as was available for purchase. Most of
this timber is merchantable and it's utilized in most structural applications. On the U.S. side of the border, there was not a subsidy from the Federal Government in order to go salvage this wood.

If the Canadian Government chooses to provide these subsidies, then there must be an offset to counter the difference when their lumber enters the U.S. marketplace.

We have been fighting over this issue for 30 years now and, you know, I continue to hear a lot of publicity about the Canadian jobs, their communities, their producers who will be impacted by an agreement on lumber, but I can adamantly maintain this issue also impacts our employees, and our jobs, and our companies, and our small towns in a real negative way.

We have not been able to run our mills at capacity production. Sawmills are simply not designed to run at half-throttle. They're just not efficient. I don't even know anymore what it's like to run my mill at two full shifts for 12 months a year.

Given a level playing field so we can operate at our capacity, our U.S. mills could provide a much larger share of the U.S. lumber market demand.

What is even really agonizing is that reductions we experienced in our production hours leads to fewer jobs in our whole community that relies heavily on our industry.
I would love to add more production hours to our whole operation, but that can only come if there are some changes in the current trade conditions.

I am a member of several North American industry initiatives to promote more and different uses in the marketing of our forest products. In that role, I work very closely with my Canadian producer counterparts all the time in our joint effort to promote forest products.

I have worked my entire career adjacent to the Canadian border. I spend many, many days and weeks recreating in Canada. And most importantly, I call many of the Canadians my friends for a lot of years.

I have absolutely nothing against the forest product producers north of the border, and I welcome their competition. But we can't continue to ignore the simple fact we need a level playing field to balance those two different timber sourcing systems. It's just that simple.

The Canadian lumber imports continue to seriously harm our U.S. industry, and until we get an agreement that's effective and is sustainable over time, we will continue to fight this issue for our companies, and our workers, and our communities.

Thanks for an opportunity to share my perspective.

MR. YOCIS: Thank you very much. That concludes
our presentation this morning. We would be happy to answer
any questions that you may have.

MS. HAINES: Thank you very much. We will start
with Mr. Ruggles.

MR. RUGGLES: Good morning. Thank you for coming
here and giving us lots of information.

A few things. One, what are the changes in the
species preference from the last agreement to this, as far
as, you know, who is using what, how they're using it, and
why? Are there any big changes? Anything deeply different
in the species from the 2002 to now?

MR. MILLER: Andrew Miller, for the court record.
We compete throughout the U.S., and we have seen a marked--
I'd say there's been a distinct commonality. In other
words, I see no specie preference amongst our customers
today, and I used to see some in 2000. It's all about
price.

MR. SULLIVAN: Similar to our situation. As I
stated in my testimony, we produce a premium White Fur stud,
highly preferential to the end user. And we sold that
regularly into the Phoenix, Arizona, market. And we were
told very recently that, in spite of the fact that our
product was superior, it was being replaced by cheaper SPF.
That SPF was as much as $50 per 1000 cheaper than we could
offer it at.
MS. DAUZAT: We referenced in my testimony, we sell to the truss market and framing market, and more and more I see SPF. You know, it's interchangeable in that arena.

MR. RUGGLES: Alright, the other one that always comes up is let's say you choke down the Canadian supply. How will you guys respond? Will you be able to supply the market? Will you be able to supply everything that's needed? Will you be able to fill everything that is being done now?

MR. SWANSON: Yes. Both of my operations, both the stud mill in Roseburg and the sawmill in Glendale are running at essentially two-thirds capacity. We run one full day shift. We have a sawmill crew and a planer crew. The swing shift is a crew that works part of the week in the sawmill and the rest of the week in the planer.

We could easily staff up and produce additional product. And the logs are available. The biggest source that would be additional volume for us would be what's currently being exported, and we have not been able to compete for those logs because the price of lumber is unfairly depressed because of Canadian imports.

If our price of lumber was where it should be, we would be able to buy those logs at are currently going export to produce more lumber and supply the U.S. market.
MR. MILLER: For the same reason Steve cites, our capacity could be increased by a third to do even up to 40 percent over current level. And the logs are available. It's a price issue.

MR. SULLIVAN: To speak to the supply of timber, we have an abundance of that in the Southeast, and we have no constraints as far as supply of timber. It's very sustainable and we're growing more today than we have ever, well since the 1930s. We're producing much, much more timber supply than ever before.

MS. DAUZAT: We're running at about 75 percent. So we definitely can increase.

MR. RUGGLES: John, I'm going to step on your toes for just a minute here. Could you please tell me how you set the lumber prices in the U.S. market?

MR. MILLER: We don't set the lumber prices. They are set for us.

(Laughter.)

MR. MILLER: Through daily transactional competition by buyers soliciting offers from a wide variety of regions and mills. And today oftentimes it's just done through Internet inquiries. You'll get emails. Salesmen get emails that say here's this product delivered to Memphis, for example, and you send in a quote, and they'll send you back. And in our record we've submitted many
documents where we've made offers and the customer comes back and says, like Steve said, we've got a lot of long-time relationships with people, but they come back and say you can have a last look, but you're going to have to be $50, $60 less because that's the quote I have in front of me from a Canadian mill in British Columbia. And those are all part of the record, those documents.

MR. SWANSON: So every transaction is between a willing buyer and a willing seller. Our salesmen will either call out to their customers, or they'll receive a call. And it's a negotiation that happens on every single transaction. The price of lumber goes up. The price of lumber goes down. It's done—the orders are placed purely on price.

MS. DAUZAT: It's the same with us. We have a sales department. They're making calls daily and they sell based on price.

MS. HAINES: Thank you. Ms. Turner?

MS. TURNER: Good morning. Thank you all for being here. I'm Robin Turner. I'm with the Office of the General Counsel.

I think I'll start off with actually sort of less of a legal question and more of the substitution/interchangeable question. In the 2002 determination on pages 25 and 26 of the public opinion,
USITC Pub. 3509, the Commission noted that the parties disagreed regarding the level of substitutability between subject imports and the domestic like-product.

The Commission, however, went on to find that after carefully considering the record—and this was a quote—"We find on balance that subject imports of softwood lumber from Canada are at least moderately substitutable for domestically produced softwood lumber. As we have recognized in prior investigations, Canadian softwood lumber and the domestic like-product generally are interchangeable, notwithstanding differences in species and preferences. In particular, the evidence in these investigations demonstrates that subject imports and domestic species are used in the same applications."

So my question to you is, you know, first of all do you agree with the findings on the 2002 Commission determination that they still apply now?

I do note that there has in the Petition used the word "commodity product." I don't think the Commission did use the term "commodity product," but it did note that there was at least moderate substitutability.

So any distinction between that, which I think the Commission does see a distinction between "commodity" and at least "moderately substitutable." If you can actually, each of the industry, indicate to me, first of
all, do you see that these are still interchangeable between? And then David and Andrew if you want to elaborate on the more legal aspect, that'd be great as well.

MR. MILLER: That's a good question. Andrew Miller. I can tell you with regards to stud lumber, it's 100 percent interchangeable every day of the week throughout the construction of homes and buildings in America.

'Most of our customers don't have a specie preference. Wood is wood, 2x4, 8 foot, or 9 foot stud, they only care about the grade standards are the same, and U.S. and Canada codes provide for complete perfect substitution.

With regards to the Home Depot, Lowes, Menards, the biggest retailers of lumber in America, we sell them all. A lot of their quotes are just "wood." You pick the specie that you want to ship us. That's all we care about. 2x4x8 foot.

MR. SWANSON: We produce both studs and dimension lumber, and we find in the marketplace that it's totally substitutable for SPF. We produce Doug Fur dimension lumber, and we constantly battle with different species in the marketplace. And the same thing with studs. Any specie will work.

MS. DAUZAT: We can also cut studs, and we directly compete. Treating market is the only area.

MR. BANAHAN: We see substitutability on
industrial grade, stud grade, plate stock, whether it's used for construction or remodeling. It doesn't seem to matter. The customer is more concerned about whether the suitable use of the product, will it do the job they want it to do? Does it meet the building code requirement? That seems to be the only real distinction between one specie and another. And for the most part, they're totally interchangeable.

We compete against several varieties in Eastern White Pine species, and we also do in Spruce against Hem Fur, Southern Yellow Pine, Doug Fir. So a high level of substitutability.

MR. ROADY: Yes, I agree with you. We cut the exact same. But we're a random-length mill and a board mill. I can answer it in the same way, the question that was asked before about price, and I was somewhat facetious going to say the Canadians set the price because that's what, the very thing our whole sales department--I'll refrain from taking that up.

(Laughter.)

MR. YOCIS: This is David Yocis. If I could just maybe just add to what they've said. I think you have to distinguish between two different types of U.S. producers. One is you have U.S. producers who are producing exactly the same species as Canada. That's SPF. That's most of the Western species, Douglas Fir, Hem Fir, Cedar,
you also have Eastern White Pine, you have other species
that are produced in Canada and produced in the United
States.

And I said at the beginning of my remarks that
for lumber of the same species, grade, and size, if you're
talking a 2x4 SPF, a 2x4 SPF is a commodity product. It
doesn't matter whether it's produced in Maine or in Quebec
or in Alberta or in Montana. It's a 2x4 SPF.

Now if you are a customer and you need a 2x6, a
2x4 isn't going to help you. If your building code requires
that you have Grade 2 lumber, Grade 3 lumber isn't going to
help you. So in that sense, not every lumber product is
perfectly substitutable of every other lumber product.

But for the species, and the sizes and the grades
that are produced in both Canada and the United States, I
think it is fair to say that they are commodity products
that are sold primarily based on price.

Southern Yellow Pine is a little bit different
because it does have some different properties. It is
marketed differently. Southern Yellow Pine is
interchangeable with Canadian species for some applications.
That was the testimony that we heard earlier. And you see
in the record that's already before you instances of
Southern Yellow Pine losing sales to Canadian lumber because
for some applications they are interchangeable.
There are, as Ms. Dauzat said, other applications where they are less substitutable, treated applications for example. But even there, the overall price level is set in the marketplace. And the overall price level is set in part through the competition to those customers who are able to switch, and who are indifferent to whether they buy SPF or Southern Yellow Pine based on their local delivered price.

So I think it's a --- for the species that are directly the same, it is much more like a commodity product. For Southern Yellow Pine, it's a little bit different but still substitutable enough that there are price effects. And price effects of imports on the entire Southern Yellow Pine market, not just the segments where there's direct head-to-head competition.

MS. TURNER: Let me ask a more specific question, which was a question that—though you're lumber mill producers and not actually home builders, and we'll hear from the home builders in the afternoon, so I was going to ask them that question, but I think maybe it's also appropriate since you're from different regional areas. And I've got to say that I'm going to indicate that it was a question actually asked by a Commissioner at the 2002 hearing in this case.

And she asked actually each—because I realize you are from Oregon, Idaho, Maine, Florida, Mississippi,
Georgia, and Montana, so you're from a wide range, and sell into Chicago as a main market area. So let me just ask very, very specifically of five different applications in the framing of a house.

And that is, floor joists. What typically in your area is used for floor joists? What is used for wall framing, headers, and trusses? And if you could indicate to me for those four products --- floor joists, wall framing, headers, and trusses---what is the type of lumber that in your region is used for that product? Meaning, Southern Yellow Pine, SPF, Douglas Fir? What typically is used?

MR. MILLER: Andrew Miller --- in my region I also can speak, because I travel and I walk job sites in other parts of the country. With regards to wall framing all species are used. You can go into jobs. You can go homes where there are four different species in the same wall. They're all just 2x4 8-foot stud grade or number two grade, depending on what the contractor -- you know the architect has specified for that structure and meets the code requirements, so it's all species and it's all based on what the best price was that was bid for that job.

MS. TURNER: So you're saying that, basically, it depends on what the availability of a product is for header, for the trusses.

MR. MILLER: I'm primarily familiar with wall
framing.

MS. TURNER: Okay, so basically, the
wall-framing studs.

MR. MILLER: I can speak to, at least, the
Pacific Northwest jobs I walk you see everything. Again,
it's based on oftentimes what the architect has specified,
to some degree it's the developer cost part of the equation
and in some cases it's code, but with regard to headers and
floor truss we make solid sawn beams that are often used for
headers.

Some applications you'll see a solid sawn beam.
Sometimes you'll see laminated beam, sometimes an engineered
wood beam.

MS. TURNER: But that's not going to be --
that's not a softwood lumber.

MR. MILLER: They're all made from softwood
lumber.

MS. TURNER: What species?

MR. MILLER: Species, Douglas fir, Hemlock,
Spruce, you name it. Some cases they'll nail 2x6 studs
together to make a 6x --

MS. TURNER: Right.

MR. MILLER: And a lot of it, if you talk to a
builder interested in what the homebuilders say, it's
largely driven by price as where you've got to meet a
structural code, but you can make a structural quote in
often cases for regard -- say a header in a garage door by
nailing together 2x6 dimension lumber and make an 8-inch
deep beam or you could do it using the same laminated beam
and it's really a matter of price, but it uses all different
species. They're all interchangeable.

MS. TURNER: Okay. And that's primarily up in
the Northwest as well as Chicago areas where you're most
familiar?

MR. MILLER: I see it in Phoenix. I see it in
Denver. I see it in Chicago. I see throughout Texas.
Texas, you name it, I think they'd frame with straw if they
could. I mean it is the most competitive, lowest-cost
market and they use anything and it's all price.

You go to a developer in Texas and you ask him
you get a lot "I don't care." Just give me wood and give it
to me cheap. You hear that again and again from builders in
Texas that are customers.

MS. DAUZAT: In the Southeast as well, I see
everything. Well, I see SBF and southern yellow pine
primarily in the framing and truss market.

MS. TURNER: But is there a difference between
-- has there been a change between the fact that in the past
you might've had just southern yellow pine in your area or
is it more that they're used interchangeable now? Is there
a preference for -- you noted that change on trusses that
the company had moved from --

MS. DAUZAT: That was strictly on price. I mean
the customer told us they were getting the cheaper Canadian
wood, so they changed to Spruce based on that.

MS. TURNER: And not structurally because the
yellow pine might be stronger than SPF?

MS. DAUZAT: No, we contacted them this week
just said how are things going? Can we sell you anything?
No, your price is much higher, but we want to use you when
prices get back in balance.

MS. TURNER: Name?

MR. BANAHAN: So we sell product from Maine all
the way down to Florida, so I see regional differences. In
Maine, typically, for floor joist and rafters you'll see a
mixture of engineered wood, typically, I-joist or solid
sawn. That's usually driven by price. If the price of 2x10
is depressed for solid sawn, they'll switch and they'll use
2x10 solid sawn. If the price of 2x10 goes up dramatically,
they'll switch and they'll use some engineered wood. Some
builders just have a preference to use or another. It's
usually a mixture.

 Typically, for wall framing, you're going to see
a mixture of all Spruce, both Canadian and U.S. Spruce for
the walls, for studs and plates. As you move further down
the coast, you get into the Middle Atlantic markets and now
you see a mixture of southern yellow pine and spruce, all
the same differences with engineered wood.

You get into the Atlanta market, which is
they'll build with anything. You them they frame a lot with
actually using No. 3 low-grade lumber and a mixture of that
and engineered wood and finger-jointed studs, so there's
some regional differences on how people build, but it's
typically driven by price and we see a high level of
substitutability. It's just in the case of Maine you're
further north. We're located right there. Our product is
very well priced in that area where it would cost a lot to
ship southern yellow pine all the way up.

So it's price driven because it's a very
freight-sensitive product. The further you ship your lumber
the higher your cost is because of freight, but we still see
Canadian spruce 3,000 miles away in Florida and it's really
about a delivered price and what their specific preferences
are for building.

MR. SWANSON: We have the same experience in the
wall framing as Andrew Miller. Complete substitutability
between Douglas fir or white fir, hemlock, SPF. We do not
see selling yellow pine in our region, simply from a freight
perspective. At our Dimension mill we also sell primarily
Douglas fir and a lot of it goes into trusses and it's an
engineered system so that the truss manufacturer has to take
the stress rating of each piece of lumber to accomplish the
span ratings they need to do, so we sell both visual grade
green Douglas fir. We sell visual grade dry Douglas fir and
we sell machine stress-rated dry products as well and we
compete directly with Douglas fir that is produced at
British Columbia.

MS. TURNER: Mr. Roady.

MR. ROADY: As a generality, we sell heavy Doug
fir, in large, for the floor joist and the trusses. Then
the white woods, whether it's the alpine balsam or the
spruce lodgepole a lot of times for the interior studs, but
it is somewhat regional. And we're a very old company, so
we've had customers for 75 years. When you go across the Ag
Belt in the Dakotas, Minnesota, Nebraska, Iowa, they love
our white wood, so they buy white wood, which is spruce and
instantly they tell us what the Canadians will sell it for
and we have to either join the crowd or -- it's all species,
price driven, but somewhat regional too, preferences.

MS. TURNER: One more question more for the
industry is -- and my understanding is that southern yellow
pine is what is used -- is pressure treated. Is treated
basically for as pressure treated and that SPF, generally,
is not or Douglas fir or any of the other. It's primarily
southern yellow pine that is.
First of all, am I correct in that? And secondly, has that changed at all?

MS. DAUZAT: Southern yellow pine is primarily the treated product, yes, but we also, as I said, we have framing and trusses as well.

MR. MILLER: You know the southern yellow pine market is a very large market in terms of treated, but when you move west of the mountains, Denver west, the principal species is hemlock and we also do treat Douglas fir.

MS. TURNER: Okay.

MR. MILLER: And the reason we don't treat pine out there is a cost issue, just the cost of freighting the pine. Depending on relative prices, you'll see pine leak into the Western market, treated pine competing with treated hemlock and white wood species.

MS. TURNER: So it's not a technical issue where you can't treat actually -- the product doesn't treat as well or take the treatment as well.

MR. MILLER: I'm not a wood technologist, but I believe that you know just observing is that white wood species treat adequately and that it is what we sell to big treaters along the West Coast and it obviously meets their needs and the customers' needs. Southern yellow pine treats well and I couldn't answer your question about spruce.

MS. TURNER: I know from a practical perspective
if I go to Home Depot and go buy a treated 2x4 it's going to
be southern yellow pine and it's probably going to be SPF if
I'm not just getting a non-treated one and I was wondering
why the reasoning for that was in this area.

MR. BANAHAN: Cell structure for southern yellow
pine takes treatment a lot better.

MS. TURNER: So it does, okay.

MR. BANAHAN: so it treats more evenly across
the whole board, whereas, spruce doesn't accept the
treatment as well. We do see up where we are people buy a
lot of red pine for treating because it does take treatment
and red pine is allowed in the SPF grade. I think,
typically, in Quebec they do sell a lot of red pine as
treated instead of southern yellow pine because they don't
have to pay the long-term freight of southern yellow pine.
So there are some regional differences and some species
differences on what does accept and what doesn't.

Typically, hemlock, red pine, and southern
yellow pine are the three that are treated most often.

MS. TURNER: That's very helpful. Thank you.

These are a little bit more for the lawyers. In
the 2002 lumber determination -- this is a clarification --
the Commission defined the domestic industry as consisting
of all U.S. softwood lumber mill operators. That was on
page 16 of the publication.
You've proposed for the Commission to define as single
domestic-like product coextensive with the scope and
on page 31 of the petition suggest to the Commission that
they define the same domestic-like product definition as
they did in 2001. The scope does not include logs or
timber, though. And on page 3 of the petition you indicate
that the petitions are submitted on behalf of the U.S.
softwood lumber, which is the domestic-like product workers
who produce U.S. softwood lumber as well as the forest
landowners.

And so my question for you is are you proposing
that the domestic industry also include the landowners? And
if so, can you please discuss the basis for that.

MR. YOCIS: Sure, I can answer that.

We're not proposing that landowners be defined
as part of the domestic industry. There are certainly
landowners who have an economic interest in this issue for
the reasons that I mentioned earlier because of the
interrelationship of lumber and timber market. And there
are members of the petition who are not softwood lumber
producers, but who are forest landowners. However, the
majority of the Petitioner, just in terms of a standing
question, a majority of the Petitioner is made of softwood
lumber producers and we are proposing for purposes of the
Commission industry determination that it be the producers
of the domestic-like product, which will be softwood lumber producers.

MS. TURNER: Thank you for that clarification on that.

Please, you did not that you weren't proposing that any members of the domestic industry that are related parties be excluded from the domestic industry, but the Commission will have to go through an analysis regarding those. So in your post-conference brief if you can provide some more elaboration regarding some of the related parties and as for why you don't think it's warranted to exclude them as opposed to a more blanket -- because we will have to discuss that as part of our analysis.

MR. YOCIS: That's fine. We'll be happy to do that.

MS. TURNER: Thank you.

Some of these might be asked a little bit more by some of my colleagues as well, but this has to do -- and John might ask for a little more detail on some of the data sources to be looking up, but in particular, if you could actually also indicate in your post-conference brief discuss the best indicators and data sources for the Commission to consider regarding demand for softwood lumber.

Housing starts are usually the one that the Commission often uses, but there are some others that the
Commission has looked at. And if you can elaborate on which of those you think are the best sources for us to look at not only demand during the current period of investigation, but also into the imminent future and provide that. That might be something that might be more in Susan's area, but if you can -- and if you want to discuss it now that's fine as well.

MR. YOCIS: That's fine. We can discuss that in the brief. That's not a problem.

MS. TURNER: A large component, of course, of the discussion by the industry is difference in the system between the U.S. and the Canadian system regarding the lumber -- not lumber, logs, timber, how the timber is prices, the subsidies that are involved, basically, for the Canadian industry.

The Commission, if it is a threat investigation, must look -- is told to look at subsidies, but is told to look at specifically -- to look at a subsidy described in Article 3 or 6.1 of the Subsidies Agreement. So if you can elaborate a little bit more, and again, this can be in the post-conference brief, but elaborate a little bit more on exactly what the Commission should do with the information and what you propose the Commission should do with any information that it gets from Commerce regarding the subsidies because we've heard this whole discussion of how
the subsidies do play such a large role, but how is the Commission supposed to be looking at that as opposed to how Commerce is looking at that.

MR. YOCIS: We can certainly reflect on that in the post-conference brief. I would say just a couple quick things. So in Article 3 of the Subsidies Agreement means an export subsidy or an import substitution subsidy and that is technically not what we have here, at least that's never been the finding because the Canadian mill buys a lot at the same price whether they export to the United States or export elsewhere or sold domestically within Canada.

However, the Canadian industry is largely export oriented and during the period of investigation, at least currently, I don't know about the whole period; but certainly currently, more than 50 percent of their production is exported to the United States. And so there certainly is an impact of the price structure that the Canadian mills face that is very different from what the U.S. mills face and that certainly affects the way Canada is able to compete over time.

I'm not sure that how much of that factors in directly into the type of analysis that the Commission does where the Commission is looking essentially at the affect of the imports as they are priced and the Commission is not particularly concerned about why they are priced the way
that they are.

In terms of how the industry perceives the issue it's, I think -- the industry perceives it much more holistically than the way the statute divides responsibilities between Commerce and the ITC, but we can certainly reflect a bit about on how specifically these factors can be taken into account if they should be by the Commission.

MS. TURNER: Thank you. That would be helpful too. And in a similar -- there is a lot of discussion in the petition about critical circumstances, but primarily that discussion really relates to how Commerce would make because the petition is, of course, to both the Commission and Commerce, so I understand why; but there really is nothing as to if Commerce does make a critical circumstance finding then what the Commission should do with that. So that would be something as well if you can elaborate on what it would be and what the Commission should look at in terms of the levels to determine that a critical circumstances finding for the Commission's purposes is warranted.

MR. YOCIS: We'd be happy to look at that. It's not my place to ask you a question, but is that something that the Commission would consider in the preliminary's phase or would that be something that would be looked at more in a final investigation if Commerce were to make
findings?

    MS. TURNER: It would give us an idea of what
you're looking for, for the Commission to make that decision
and gather the information that it needs to, so that's why
I'm asking the question.

    MR. YOCIS: Okay.

    MS. TURNER: But you're right, being in a prelim
it's going to be a lot less than it would in any final.

    MR. YOCIS: Okay, that's fine. That's helpful.

    Thank you.

    MS. TURNER: And I think with that I'm pretty
much -- I think any of the data questions that I was going
to ask I think my colleagues will probably ask, so I'll stop
talking before I start coughing. My cold doesn't seem to
dissipate.

    So anyway, thank you very much for your answers
to the questions and coming here today.

    MS. HAINES: Mr. Benedetto.

    MR. BENEDETTO: So thank you all very much for
coming here today. If any my questions touch on anything
that's business proprietary, please just say so and you can
follow up in the brief.

    Could you please describe a little the market
for who buys most of the softwood lumber that you produce?
And what I mean is if you can say here what shares retailers
like Home Depot, what share is smaller retailers, what share
is dealers or distributors or are there any sales on
exchanges or what share goes directly to homebuilders or
anything like that?

MR. MILLER: Andrew Miller.

It's a complete mix of everything from
wholesalers to retailers to local yards to people that just
sell wood off of the telephone and they have remote
inventories, office wholesalers, I mean regional
distributors. I think there's probably some data on how
that all works through the system on a national basis.

We sell the majority of our construction-grade
lumber to big retailers, mainly, to Home Depot. We sell all
our low-grade lumber to a whole array of brokers and
distributors around the West.

Before the Home Depot came on the scene, I
believe between them and Lowe's and Menards, they maybe
consume about 10 percent of softwood construction-grade
lumber, which doesn't include all the engineered or
low-grade lumber. We used to sell pretty much you know just
regional distributors and wholesalers.

MR. BENEDETTO: Anyone else?

MR. SWANSON: We don't have a contract with any
of the large box stores. The bulk of our wood goes to
stocking distributors and to what we call pro dealers where
they're selling primarily to homebuilders.

    MR. BANAHAN:  We try to have a balance of some
big box, some pro build, big type, so we try to have a
healthy mix of all of those segments in the market in terms
of -- you know have some industrial customers, have some
retail buying group type customers so we can deal with most
of the mom-and-pop retailers as well as then the bigger
pro-type yards. You know the Pro Builds, the 84 Lumber, the
guys like that, and then some of the big box business. So
you have a nice healthy mix so if one segment goes down
you're balanced out because of the other segment. So I
think kind of a diverse approach is probably the approach we
take and we like to have a nice spread of all those
combined.

    MR. ROADY:  I'd say as a rough estimate maybe 25
to 30 percent of ours is sold to retailers. And when I say
that, they might have eleven stores, two stores and some of
that is simply because we've been in business a long time
and been selling to them since their grandparents owned
those stores and the rest we sell to bigger wholesalers. We
do not sell to box stores and that's on purpose.

    MS. DAUZAT:  We also don't sell to box stores.
Remanufacturers, pallet manufacturers, treaters, it's just a
good mix. I don't have exact percentages on the top of my
head.
MR. BENEDETTO: Thank you very much. Anyone else on that?

Did the building code requirements you were talking about do those come from the state or county or the city? Where do your building code requirements typically come from? And you said that the building code requirements set a lot of what your customers were looking for. Would you be able to add a few, maybe, to the post-conference brief that you put in so that we can see examples of those? Who does set them and what do they typically say; if you could elaborate a little on what they said that would be great.

MR. MILLER: International Construction Code, it's an ongoing coding body that covers all building codes. So you're talking about structural codes, energy, plumbing, electrical, and they update them, I think, on a three-year cycle. They're different components to the ICC and then they're adopted locally, local building codes. And local building codes have some leeway as to whether they adopt or modify or grant exemptions and those are based oftentimes on local conditions.

MR. BENEDETTO: Yes, if I could see something that says you can use spruce pine, fir, or southern yellow pine or something like that.

MR. MILLER: Typically, the codes don't
specific. They want an outcome, so a structure that meets a
certain requirement in terms of strength or fire rating and
so the building codes don't specific species or even size.
They're not prescriptive. They're outcome based, so that's
why there's so much interchangeability between species and
different types of building materials. Particularly, wood,
as long as you meet the structural strength requirements,
they don't care what the grade stamp is in often cases.

MR. BANAHAN: Probably one of the reliable
places to look for that is when the architects spec a job,
they'll spec southern yellow pine number two, Doug fir, SPF,
as all acceptable species, and those are readily available,
and I believe they're going to be, you know, in the packet.

MR. BENEDETTO: Next question. As you all know,
we asked for very detailed pricing data in our
questionnaires. I'm wondering if this does go to a final,
would the pricing data, since you've said that a lot of the
species are interchangeable, would we be able to improve the
pricing data if we didn't specify very specific species in
that pricing data section? Could we combine different
species there, and we asked for data on a very specific
day. Is that also necessary, or can we combine all the data
in a month together?

MR. YOCIS: Let me maybe start by just framing a
couple of things that maybe some of our industry people can
fill in on some of the details. I think in terms of comparing over time is perhaps an easier question. Lumber prices change very, very quickly, and perhaps some of our witnesses can give you some examples of that.

But you'll frequently see, for example, in the published industry publications like random lengths or Crow's or any of the other sort of industry publications, they'll say, you know, prices were strong on Tuesday, but they collapsed on Thursday or vice-versa. And so if you're looking at, you know, well if you sold on Tuesday and you sold on Thursday and you're comparing those two prices, that may not be apples to apples and, you know, one of the questions is you may get more hits, but you'll get the, you know, the questions what's the signal to noise ratio in the data that you're getting, you know.

Are you getting actual head to head competition, or are you just measuring the fact that the sales were on different days? So I think that's one of the issues that you have. One of the other issues that you have is that even if the same species are interchangeable, there may be some -- because of regional preferences there may be the price point at which -- at which a particular sale is deemed to be competitive may be different.

So for example, maybe Steve, if you maybe, maybe you would be able to give some more detail on this. So Mr.
Swanson mentioned earlier that his firm, his company was selling white fir studs to the Phoenix market, and the customer there decided because SPF was $50 per thousand board feet cheaper, it was better to switch to SPF even though they preferred -- even though they had a preference for the white fir, they would take SPF at a $50 price gap.

I don't know if that customer would say well, the $20 price gap by preference, you know. I would still -- I'm willing to pay $20 more for white fir. I'm not willing to pay $50 more for white fir. So if you've got that kind of competition going on, mixing species might or might not be informative in terms of whether the two different products are being sold at a competitive price, or which one is really higher than the other.

So I think that's one of the difficulties that you have in broadening the comparisons. Yes, you would have more -- you would have more matches, and actually I think this time we'd probably have more matches than we've had at any time in the past, and we didn't have a lot of matches this time so far from what I've been able to see from the confidential data that's been released.

But that's sort of part of the nature of this market. I don't know if anybody else wanted to jump in on some, maybe provide some more detail on some of those points.
MR. SWANSON: Well speaking specifically of the Phoenix market, we are one of the few mills that segregates white fir from hemlock. So the grade stamp would say "hem fir," but in our case, even though we stamp it "hem fir," it is virtually exclusively white fir, and that typically commands a premium because that particular board accepts a nail better, accepts a screw better, has less warp and twist.

But in the case that I cite, the customer had been calling us on a regular basis. We had transacted business over years and years, and they finally said we just have to switch to SPF because it's $50 a thousand cheaper.

MR. BENEDETTO: Thank you all, and then could you elaborate a little bit more about the importance of grade? First of all, just for the record, who determines the grade, when do you decide when to sell one grade versus another, and just -- I think you said this, but just to confirm that both the U.S. and Canada make all the grades and compete in all the grades; is that correct?

MR. MILLER: Yes. The grades in the U.S., which I think are pretty much identical to Canada, is set by the American Lumber Grading Standards, and it's actually I think a group that's housed within the Department of Commerce. So and that ties into the building codes. So they do all the testing requirements, so the stamp that we
put on lumber is driven by ^^^^ and it's made up of a lot of regional grading associations from around the country and Canada, so it's -- that's how grades are set.

MR. BENEDETTO: Anyone else have anything to add to that?

MR. BANAHAN: A typical dimension mill will produce 75 to 80 percent high grade. So one or two grades. Those are combined together, called two or better, and about 25 to 20 percent low grade, which would be number three and number four. Then as in between, there's stud grade if you're running a stud mill. But for a dimension mill, like we run two dimension mills, we're getting 80 percent high grade. So and we run our lumber all through auto grading systems, computerized auto grading systems.

So there's no manual grading anymore. It's all done using computer technology. So it's determined within a very tight variance of whether it's one and two or it's number three.

MR. MILLER: When it comes to lumber grades, the two principle determinations are the knot sizes and how the knots run through the piece of wood that affects its structural integrity, and then some degree what they call wane, which is whether the board is square or has a slope to it because you're picking up the exterior round portion of a log.
So those standards apply to all of us, but basically the lumber grading standards, you know, it's a natural resource that comes from a log. So but most of the mills across America, if you look at our grades, they're all within a fairly narrow range because they all meet the structural requirements of these grades.

MR. BENEDETTO: And in Canada?

MR. MILLER: Yeah, by specie, yeah. I mean you see -- I mean there's some minor variations, but those numbers he quoted about two and better versus three and four grades are pretty common numbers you see across North America.

MR. ROADY: We may all belong to different respective associations on grading, but either side of the border you still would have the same grades that come out of those trees.

MR. BENEDETTO: How important is the replacement market compared to the new home market, if you know that? I know you may not deal directly with the home builders, but do you know, is the replacement market a much smaller part? That's my impression.

MR. MILLER: No. You know, I guess it's probably a data set. But certain organizations that forecast wood products demand. It's actually the consumption of construction grade lumber is, up until
recently was, as they define it, repair and remodel, which you know, there might be a bit of a loose definition but actually more construction grade lumber was consumed through that channel than the new construction market.

But there's some definitional issues. But it's a very sizeable market. Obviously that was -- that market tends to be, you know, pretty stable and as home building consumption increases and consumption increases in that market, obviously the ratios change. Same thing with the low grade market, which we often call the industrial market, pallets, all kinds of industrial uses of wood.

That tends to be a relatively stable number driven by a whole factor, you know, industrial activity, non-residential construction.

MR. BENEDETTO: Is there any difference in the lumber demanded, either the amount demanded or the type demanded for multi-family housing versus single family housing? In other words, if there was different trends and how much new housing starts are in each of those sectors? Would that affect you at all?

MR. MILLER: I think it affects the overall demand of lumber, because board footage in a, you know, unit up for multi-family ^^^^ multi-family units consume less overall volume of wood products across the board, whether it be, you know, wall sheathing or engineered products or
construction grade lumber. Just it's the size issue, just
the scope of footage footprint of multi-family unit versus a
single family house.

MR. BANAHAN: I think U.S. Housing Starts breaks
it down into how much is actually multi-family and how much
is single family. Our recovery since 2009 has been led
primarily by multi-family structures. That's where most of
the increase came from. Now we're finally seeing single
family homes increasing a little bit, but it's been really
predominantly multi-family.

MR. BENEDETTO: And the last question. Mr.
Swanson, you talked a little bit about timber exports to
China being a new development that we haven't seen in past
cases. Could you elaborate a little bit on that? I'm
wondering, do you expect this to continue, and if you could
talk a little bit about how large an effect that's been?

MR. SWANSON: There are significant log exports
off of the U.S. west coast to China and to a smaller degree
Japan. Japan has been more of a steady market, and they
take a higher grade log. China has been a more recent
entrant into the marketplace. They were fairly significant
in the marketplace in 1995, and then they retreated, and
then really came back five or six years ago.

While the export is not as significant off the
west coast today as it was even two years ago, it's still
significant and it is a source that we would be able to
divert those logs to domestic production were it not for the
extremely low price of lumber.

MR. MILLER: We compete actually a little closer
to the export docs where our mills are, and we compete head
to head. I mean the large institutional landowners in those
areas, you know, that's the best price. A lot of the wood
goes into the big ports along the Columbia River.

But I could stand to be corrected by Susan, but I
believe the export volume, just in the Pacific Northwest
going to Asia is about a billion board feet of logs, which
is the equivalent of about two and a half, 2.6 billion feet
of lumber that could be produced, which would be the
equivalent in Oregon and Washington of maybe 12, 15
good-sized saw mills.

So there's a lot of capacity there from the
timber side. It's just the price we could afford to pay for
the logs.

MR. BENEDETTO: Thank you all very much. I
appreciate it.

MS. HAINES: Ms. Berry, do you have any
questions?

MS. BERRY: Thank you. Just one general
question for you all and then one follow-up for Mr. Banahan.
Can you tell me if there have been any technological
improvements in the industry that have allowed some mills to
become more efficient over the last 10 to 15 years, even if
they're fairly small or marginal improvements, and then Mr.
Banahan to follow up on the computer grading, can you tell
me how long that's been the industry standard? Thank you.

MR. BANAHAN: We installed computerized grading
in our mills about eight years ago. We have -- we probably
have one of the most modern mills on the east coast. The
actual technology has been in use in Europe for probably
about 15 years. Ours came from Finland. It's called
FINSCAN and it's very accurate.

I do know on the west coast, I think some of the
other mills here also use similar products that are all
pretty much used in a lot of large production facilities
now, because it's much more efficient and much more
accurate.

MR. SWANSON: There have been significant
improvements in saw mill technology over the last decade,
both in software and hardware. We also use automated
grading in both of our mills. One uses FINSCAN and one uses
an USNR product, a transverse lumber grader, and we were
actually the first mill to put in the USNR product. All of
our mills are very state-of-the-art, very technically
advanced and, you know, we have very, very good mills across
the industry.
MR. ROADY: Lots of technology improvements. Most of them are a dream for me, but we have not put in the automated grading yet. It's a matter of time. We've done a lot of research on them. We're still waiting for the next good market to be able to afford to do that. But yes on the technology. There's some great technology out there.

MS. DAUZAT: We have some of the most efficient saw mills in the southeast. We have auto grading and have had it probably eight to ten years. We can compete with anyone. We just can't compete with subsidized lumber.

MS. BERRY: Thank you.

MS. HAINES: Mr. Yost.

MR. YOST: I'm not that important, thank you. One mic will do. Thank you very much for your testimony. We're still into the morning. I just have a couple of questions. I have a note to myself to ask about logs, and the first part of that is can you generalize. Do companies own -- the companies that own their own timberlands, are there more of them, less, fewer, I mean the percentage that's going into softwood lumber from company-owned timberlands? More, less, about the same as we saw in the 2002 investigations?

MS. DAUZAT: I will tell you in the southeast there's less of that. There's not a lot of separation between. But we as a family, we own a little bit of land.
We can by no means supply our mills with what we own.

MR. YOST: Okay. Anyone else?

MR. SWANSON: We have virtually no timberland of our own. We rely on large industrial landowners and to some degree federal programs. Even within the larger companies, there's been a separation between their manufacturing and their timberland holdings. So I think the answer would be there's less and less mills that are passing through their log costs to their lumber.

MR. YOST: The companies that do own their own timberlands, if you know, do they mostly use their own timber for lumber, or does it go into other wood products or split? If you can generalize. If you can't at this point or it's BPI, you can -- I welcome further elucidation in the post-conference brief.

MR. SWANSON: I would just be guessing as to what other companies are doing with their own logs.

MR. ROADY: I can only speak really for ourselves. Maybe ten percent of our logs comes off of our own lands. So we're depending on others, and when you ask about logs, when we buy logs that comes from other private landowners that have used other contract logging people. Otherwise, if it's off state or federal or tribal lands, we buy it as timber and then do the logging ourselves.

But the dynamics have changed some, say since
2002. There's a lot more institutional landowners. The TIMOs, Timber Investment Management Organizations. So those dynamics have changed some. The Hancocks, the Campbell groups, those type of investor institution is what Andrew ^^^^ that's what we refer to them as. So some of that's changed. But the price of those ^^^^ when the market isn't good, they don't sell.

MS. DAUZAT: We manage our lands as a separate asset, and want to maximize the value of our land, just like we all of our saw mills so --

MS. HESTER: This is Susan Hester for the record. Of the companies that we've worked with, only one sources all their timber from their own lands. It's usually a combination. Some from their own land and then some on the open market.

MR. YOST: What Mr. Roady was commenting about, the sort of I guess LLCs that go into timber management or land management. Are they -- is this a relatively new development in timberlands?

MR. SULLIVAN: I'll speak to that. I think one of the things that's occurred is that because landowners have such a hard time making a return on their investment, ownership of land has gone to its most efficient means, and I mean these timber organizations that come out. They take pension money, for example, and they buy land and grow
timber with that.

They have a completely different tax structure than the average non-industrial forest timberland owner, and that's been driven primarily in a move to be more efficient in the ownership of the land because the returns to the timberland are so bad. And so we've seen that time and time again. We watched companies divest themselves of land.

They've gone from being fully integrated forest products, saw mills and companies, where they're not efficient. So they have pared their operations down to the bone to focus on one or two things that they do very well.

They've given the land, sold it on the open market and these organizations have come together to buy this land and do that management and all the other things as efficient as they possibly can, because that's the only way you can make money in this business today by owning timberland.

MR. YOST: And these organizations are independent of the saw mill or the SRO?

MR. SULLIVAN: Absolutely. So that's the key difference for a timberland owner is that we depend on the saw mills to buy product, but we have no assurance that they'll even be there or buy it when we're ready to sell it.

They have no assurance of supply, which is
completely different in their book. They have to go into
the open market and strike a deal with a landowner. A
landowner has to be willing to sell their product at a price
that they can make money off of. Otherwise, they'll take
the land and do something else with it.

And a saw mill has to be able to kind of meet in
the middle, and if that doesn't take place, then the saw
mill doesn't have raw material and the landowner won't be
able to sell the trees. Those two entities are joined at
the hip. It requires both of them.

MR. YOST: So this is a major change, would you
say, since 2002?

MR. SULLIVAN: It's occurred over a longer
period of time. I mean we watched Weyerhaeuser company
divest of three million acres in Stoddard, Georgia they
owned. I believe I'm correct; I'll modify that. But I
don't believe they own any timberland whatsoever in the
state of Georgia anymore. They went from being one of the
largest timberland owners to owning zero in just less than
10 or 15 years.

So that kind of shows you the scope of the
industry that we're going through, that massive change in
ownership and running these industrial operations.

MR. YOST: Thank you for these comments.

They've been very useful. How are timber prices set or
established? I don't want to say set but, let's leave it at established.

MR. SULLIVAN: So first of all it's set when the landowner has a goal or objective to sell timber. So they have to be motivated, and you have landowners out there now for self-interest, for reasons that may or may not be economic to put the timber on the market. But what they do rely on is that when they are ready to sell timber, they broadcast that timber availability into the open market.

When I go to sell wood on behalf of a client, I publish that and I invite any mill who has a reasonable chance of buying that wood, regardless of how far away they are, to come and look at the timber I offer up for sale on behalf of the landowner. I do this in the marketplace, and so I'm allowing the market to come to me and to say this is what we're willing to pay for this timber.

But at the end, if a saw mill doesn't come to the table and bring a price that the landowner's willing to sell the timber for, then that transaction never takes place. So that's completely -- we have one of the most efficient systems of capitalism in the lumber market there is, because that's just the way the system works.

And so it's very price competitive. Demand fluctuates depending on what saw mills want at the time for different products and species. All of those things come
into bear. But at the end of the day, it's about price.

MR. SWANSON: The large industrial landowner in
my part of the world, what we call that is patient money.
So it's pension funds, it's groups of investors that come in
and make specific purchases with a financial objective in
mind.

So we go out as the buyer and we bid on
specific, identifiable lots of timber, and it can be either
we're buying the standing timber, with a right to cut it
over a defined period of time, or we may be buying delivered
logs, in other words, logs that show up at our gate on a log
truck.

In both instances, we are competing against
multiple other bidders that are -- either they're plywood
mills, they're lumber mills, they're engineered wood mills.
So everybody's competing, and in every instance, those logs
go for the highest return for the landowner.

MR. YOST: Is there any implicit or explicit
indicator that the landowner looks at, like prices for
lumber? Is there any link there?

MR. SWANSON: In where we operate, the two
markets are truly separated. There's significant demand for
the logs. If you don't have logs, you're not going to run
your mill. So there are numerous times when we're paying
more for logs because we need them than what the lumber
market will support, but we have to do that during certain
times in order to have continual operation.

MR. YOST: So you're inventorying logs at that
point?

MR. SWANSON: No. We operate more of a just in
time process, where we try not to have more than six weeks'
worth of logs in our yard at any one time. So we're
constantly in the marketplace for logs every single week.

MR. YOST: Anyone else?

MR. SULLIVAN: Yeah. From a landowner

standpoint, the price of lumber does go up. Landowners
react to that by putting more supply of timber on the market
in response to hopefully getting higher prices for their
timber. So absolutely. There's a demand and supply
correlation there that's quite efficient.

MR. YOST: Mr. Roady, I see you.

MR. ROADY: A little different landscape where
I'm located, surrounded by mostly federal ownership. The
private is very small landowners in general.

MR. YOST: I was going to ask next about the

federal, federal lands, the bids?

MR. ROADY: Well, you heard my testimony where I
stay up late at night wondering where my next log's coming
from. I meant that sincerely. It's totally undependable,
but we're surrounded by trees so it's there. As far as
determining price, we just work it backward from what we're able to sell our product for and it's usually behind, you know. The market's either gone up or gone down.

When we do an analysis to determine what we can pay to those private or in an agency type, government type sale. A lot of it depends what my neighbor mills might be paying. I mean sometimes you pay way more than you should, just to keep operating. I mean it's that simple, and that's what Steve alluded to.

MR. BANAHAN: It's one of the areas where we see a significant difference between the Canadian timber tenure system and the U.S. tenure system, where we don't have a tenure system. But we negotiate prices every six months and bring them in on contract by predominantly Gatewood. But as the market for lumber increases in price, our suppliers, our log suppliers know that and they raise their price to us accordingly.

So there's a very direct link between what the lumber market and the log market is doing, whereas in Canada, they've got a locked in price that when that lumber price goes up, very rarely does that log price come up behind it. So we get caught in a price squeeze, even in good markets where we just can't capitalize enough on our good markets to carry us through the entire business cycle.

MR. SWANSON: I'd like to speak specifically to
federal timber in our region. Whether it's the Bureau of
Land Management or the U.S. Forest Service, they both
operate in very similar situations. They will advertise and
then provide you with a prospectus that gives you an
estimate of the volume and quantity and species of the
timber sale, and then you are invited to bid on that sale.

We will show up at the designated place to bid
on a specific timber sale, and there will be six, eight, ten
different bidders there, and the government sets a minimum
price and then the auction begins. It's competitively bid
until somebody -- till everybody quits bidding except for
one, and they are then -- the apparent high bidder are
awarded that timber sale. So it's very competitive and any
qualified bidder can participate in that auction.

MR. YOST: Are there restrictions on export of
logs from federal timberlands?

MR. SWANSON: There is a restriction on the
export of logs from federal timberlands in the U.S.

MR. YOST: So the description that we had
earlier about all these logs going down the Columbia River
to Asia are from privately owned timberlands?

MR. SWANSON: That's correct. They're from
privately owned lands only. So where I operate, about 88
percent of the volume that's consumed in our region comes
from private ownership, and about 12 percent from federal
MR. YOST: I wanted to ask a question about the changing, changes in the domestic industry. Particularly we're seeing some Canadian names showing up as domestic producers. Is this also a new development, Canadian firms moving south?

MR. SWANSON: That is a relatively recent development. It began just before the 2006 Soffa Blumbergen. But it's relatively new.

MS. DAUZAT: It is new, and as we were recovering out of the downturn in 2009, in 2012 those purchases accelerated, while we were just getting back on our feet, with enough to reinvest into our mills to make improvements.

MR. YOST: Anyone else want to comment?

MR. ROADY: I don't have any in our area where the Canadian firms have bought it, because they'll just say Chuck, why would I want to go there and have to pay that for the timber?

MR. YOST: Well, if they're operating a U.S. mill, I doubt that they can get Canadian timber, so I guess not to put too fine a point on it. If there's such a lousy market, why are we seeing new entrants? Are they buying --

MR. ROADY: Different dynamics in different parts of the country. So I'm in Northwest Montana, and I
don't have all this vast private timberland around me. They
would have to go to the bid table, as he described, just
like I do if they bought a mill there, and they'd have to
pay way more for logs than they've ever been used to.
They're not going to do that.

MR. YOCIS: And I think -- this is David Yocis.
I think if you look at where most of the mills have been
bought by Canadian-owned companies, they tend to be in
areas. There have been a few -- there have been a few in
Maine, generally with smaller Canadian companies buying
mills in Maine, although that trend existed a while ago.
But you have a lot in the south, and a lot of
that was triggered, as was said earlier, during the Great
Recession, when U.S. industry was having a really hard time
raising capital to either keep mills open. A lot of mills
closed or a lot of mills were not able to reinvest, and to
have a large public company, whether U.S. or Canadian owned,
to be able to come in. It was a good opportunity to snap up
some assets at relatively low prices.

MR. YOST: Thank you very much. Again, I join
with my co-workers and colleagues in welcoming you here
today, and I appreciate your testimony. That concludes my
questions.

MS. HAINES: Does anyone have any other
questions?
MS. TURNER: This is Robin Turner. I just have one follow-up on the supply actually of logs, that in the testimony that significant or in the answering to questions, that significant U.S. log exports, primarily on the west coast are going to Japan and to -- increasingly to China, from that there seemed to be the assertions that it -- that there was logs, timberland logs were in short supply to the mill owners who are more on the west coast, who have to actually get that.

But I seem to have gotten the impression, Mr. Sullivan, from your testimony about Georgia and the southern U.S. and being a landowner there, that in fact there seemed to be a excess supply of actually timber and logs in your area. So is there a difference between the west coast and the east coast in terms of the supply of the raw material of timber/logs?

Secondly for Mr. Sullivan, if you can also indicate whether you're exporting, I suspect it's not to Japan or China, but basically are you exporting to other countries as well?

MR. SULLIVAN: Let me tell you that technology has come into play. When I first went into the forestry business, we would grow about one-third of the amount of wood that we could grow today, just because of the function of genetics and also climate change. We have more CO2 in
the atmosphere today than we've ever had, and believe it or
not that's fertilizer for all those trees.

            We store more carbon in our forest today per
tree than I ever thought was possible. So it's been very
beneficial for us to do that. As far as -- so we have an
abundance of supply growing on fairly stable acres, even
with a tremendous influx of population moving into the state
of Georgia. So we have a lot of dynamics at play.

            As far as the logs being shipped overseas, we do
see some of that going out of the Port of Savannah and
other places. But again, the domestic movement of logs is
highly dependent on transportation costs. So when you have
a cap on what these local saw mills are able to pay for
that, then landowners try to figure out where they can send
their product to earn the highest return on the timber that
they have.

            Sometimes that market entails being able to ship
overseas, but that's a rarity. We don't ship near the
amount of timber just because of transportation costs
anywhere else. So the answer there is no, we don't have the
pressure or the proximity to Asian markets that they do on
the west coast.

            MS. TURNER: But do you -- when you do, the
exports that do come from the more east coast or the
southwest in particular areas, what markets were you
exporting to?

MR. SULLIVAN: You know to be honest with you, I don't know. I do know some are floated out of the Gulf Coast and some out of the Port of Savannah, which is in Georgia. Where they go to, I don't know where they're going to.

MR. YOCIS: Sorry, I thought it was on. We can provide in the post-conference brief some of the data on log exports. You do see a pretty significant increase in exports of logs to China, even from the U.S. South, although the volumes are much smaller than they are from the west, just because the distance is longer.

I think there are two slightly different stories here. I think in the west, the issue is there is competition for the logs. There are enough logs to make plenty of lumber in the Northwest. The issue is given where U.S. lumber prices are, which is certainly affected by subject imports, given where U.S. lumber prices are, the U.S. mills can't afford the international price for the logs, and it's much more of an international price than it was in the last case.

In the South, where the international part of it is a little less developed because of the transportation issue, in other places what you're seeing in terms of timber supply is institutional landowners and private landowners
during the Great Recession didn't sell timber one, because no one wanted to buy it because there wasn't demand for lumber, and two because the prices that they could have sold it for were so low that they said, as people who wanted to maximize the long term value of their timber, you're only going to harvest once every -- in the South every 25 or 30 years; in the North and in Canada, it's even longer than that.

So no one wants to sell when the prices are low, and so one of the things that happened is you got a timber overhang from the recession, that took time to work its way through the markets. I'm more familiar with -- personally with Maine, and we can provide the data in the post-conference brief.

But in Maine, if you look at lumber prices in 2010, '11, '12, went up and timber prices, at least the published survey prices in Maine, the timber prices did not, and that was, you know, because generally the timber and lumber prices, as was testified earlier, generally do move together, and that was sort of surprising.

I think precisely because of that overhang, during the recession there was just a lot of timber available, and then once that backlog got worked through, the old relationship came right back, and in 2014 you start to see timber prices come up to match where lumber prices
are.

It is a process that has begun in the South but is still in process. There's still that overhang from the recession, and I think that goes to one of the points that was raised a few minutes ago or earlier this morning, and we'll probably hear about in a few minutes.

If you look just at financial performance in the South, because of the log costs, you know, you might say oh gee, why is there injury? But the real issue here is being able to compete and use that timber to produce lumber in the current market, notwithstanding the fact that we're not at the bottom of the market.

We're in a higher part. People ought to be able to produce, ought to be able to soak up that timber supply, ought to be able to be selling lumber and building the capital to make the investments for all the new technology, as was asked about before, so that people can be competitive for the next business cycle.

That's really what we're seeing, what we're seeing in the South, is still working through that timber overhang from the recession, and we'll try to provide as much of the data as we can on all of these factors in the post-conference brief.

MS. TURNER: Thank you. That's actually been very helpful because I did -- it did seem like there was
definitely a difference between what was going on on the west coast in the timber versus the -- not just because of federal lands, but because of actually the competition from Japan and China. So thank you very much.

MR. SWANSON: Could I elaborate on one of my responses?

MS. TURNER: Sure.

MR. SWANSON: One of the questions I believe that Mr. Yost had asked was can logs from federal sources in the U.S. be exported, and of course the answer is no. That is a system that's also in place in Canada. They don't allow the export of logs from their provincial or federally owned lands. Here in the U.S., though, the private landowner can sell to anybody he wants at any time.

That's in contrast to what happens in Canada. The private landowners in Canada have the ability to export, but there are significant restrictions involved. I have gone to Canada myself. I have bought logs right off the Frazier River, and bought those down to my operations in Oregon. But the difference is I can be the high bidder on a segment of logs, on an advertised volume of logs in Canada. But they have to wait for a specified period of time. Any local mill can block the sale to me, and all they have to do is say I want those logs.

They don't buy them at the price I was willing
to pay for them. They buy them at the provincial administered price. So the landowner in Canada, the private landowner is forced to sell his logs for less money than I'm willing to pay for it, if a mill simply says I want those logs. That's the big difference.

MR. BANAHAN: In Maine, we have a kind of unique situation occurring. We're surrounded by Maritimes on one side and Quebec on the other side. A lot of subsidized mills from the Maritimes in Quebec come into Maine and buy logs at an elevated price. They're getting 70 percent of their logs from the Canadian government, the 30 percent from open land. They'll come in and outbid us for our own logs. So we actually have a log shortage, and it's due to Canadian subsidized mills being able to overpay for our logs. It's very, very frustrating. You sit at the mill yard and watch truck after truck after truck going across the border to be processed into lumber, and then it comes right back and gets shipped back to our customers.

MS. HAINES: Any other questions? No. Well, thank you for the entire panel for traveling this far in this cold weather. This was extremely helpful. We'll take a 15 minute break, and then have the other panel come forward.

(Whereupon, a short recess was taken, to reconvene this same day.)
Ms. HAINES: Okay, I think we're about ready to start, if the panel would like to proceed. (Pause.)

Alright. Welcome. Please start.

STATEMENT OF MATT NICELY

MR. NICELY: Thank you. Good afternoon, everyone. I'm Matt Nicely of Hughes Hubbard & Reed, appearing on behalf of the Government of Canada. I'm presenting an overview of Joint Respondents' defense.

I am joined by my colleague Eric Parnes and our client Colin Bird, Minister-Counsellor, Trade and Economic Policy of the Canadian Embassy. Jim Dougan is here with us from ECS, along with Kivanc Kirgiz from Cornerstone. Also here with us are various Canadian Industry Association counsel and representatives of the National Association of Home Builders, the buyers from the sawmills.

This is the fifth time U.S. industry has come before you seeking relief from allegedly unfairly traded imports of softwood lumber from Canada. Most recently, in both phases of the Lumber IV Investigation, the Commission based its affirmative determinations solely on the basis of threat of material injury.

The Commission rejected the coalition's claims of current injury, even though Canadian market share at that
time was higher, and the U.S. industry was doing far worse
than it is doing today, even though the industry had been
protected by the 1996 SLA until the filing of the lumber
petition, the Lumber IV Petition.

This time the Coalition case is far weaker.
Through the POI here, the U.S. industry maintained a much
higher market share than it held at any time in the Lumber
IV POI. Canada's market share increases during the years
before the SLA expired were minor, inching up about one
point per year but remaining below 30 percent through end of
2015.

For 24 of the 33 months of the POI prior to the
SLA's expiration, prices were so high that no trade relief
was triggered under the terms of the SLA. And throughout
the entirety of the pre-expiration period, the SLA protected
the industry from injury, which several members of the
Coalition attested to, including three of the witnesses who
tested today.

Indeed, the Coalition announced in 2012 that it
welcomed the SLA's extension for another two years through
October 2015.

No matter how you look at it, there is simply no
way to conclude that the U.S. industry was injured by reason
of imports while the SLA was in effect.

We focus, therefore, on the period since the
SLA expired in October 2015. Based on the Coalition's world view, one would have thought that in this period of unfettered free trade we would have seen the industry's performance falter. Yet, on the contrary.

Despite an increase in imports from Canada during the period, the U.S. softwood lumber industry has seen its fortunes rise rather than falter. U.S. production, up. Capacity, up. Capacity utilization, up. Shipments, up. Profits, up.

Every single measure of industry performance relevant to the Commission's evaluation of the condition of the industry has improved since the SLA's expiration.

Just a few weeks ago, the single largest U.S. producer of softwood lumber and member of the petitioning Coalition, Weyerhaeuser Company, who by the way is not here today, reported its strongest third-quarter earnings in over a decade, fueled by rising prices and increased output.

Look at slide three. The company's wood products division reported increased earnings that were, quote, "the strongest since third quarter 2004 when we operated roughly two times the number of manufacturing facilities we do today."

This happened during a period of unfettered free trade when subject imports gained their largest volume of the POI, albeit to a share well below what the ITC deemed
non-injurious in Lumber IV.

Lest you think we're cherry picking from statements presented to public company investors, even the Petition admits to the industry's post-SLA double-digit operating margins. And aggregated questionnaire responses so far indicate even better improvement than the Petition.

Given these facts, the Coalition's current injury case confronts an even steeper hurdle than it did last time around. That brings us to threat.

Last time, central to the Commission's affirmative threat determination was its finding that the U.S. industry was vulnerable to future injury, given its depressed financial condition.

This time around, the circumstances could not be different. Consider what Weyerhaeuser reported to investors on Tuesday of this week, three days ago, slide four. This shows the growth in housing starts through 2016 and forecasts 1.3 million new starts in 2017. And, look at that, continued growth past 2020.

Then look at slide five, which shows the impact such increased housing starts portend for lumber demand. This is from a member of the Petition's Coalition.

Importantly, it isn't just Weyerhaeuser that's bullish about the future. When reporting to its investors this week, another leading member of the Petitioner Coalition,
Potlatch, also not here, used the following slide to showcase increased housing starts and lumber demand.

And rather than complain about any price effects from increased subject imports, Potlatch presented this slide, slide seven, where it says that lumber prices, quote, "Lumber prices are correlated with manufacturing capacity utilization which is increasing."

And look what Weyerhaeuser says about pricing in the future. Look how they project prices going up, and how they anticipate Canadian production going down. Neither company says anything about increasing imports from Canada driving down prices.

In fact, look at what Potlatch says about Canada on slide nine. The headline is "Canada's ability to supply lumber is constrained."

And look at their visual below. It says, "Canada's lumber supply has declined by about 10 billion board feet due to the Mountain Pine Beetle and a reduction in allowable cut."

Doyle Simmons, Weyerhaeuser's CEO and president, said it best when he ended this week's Investor Call with "The future could not be brighter."

This doesn't sound like an industry that's vulnerable, nor does it sound like they feel threatened by what they depict as constrained Canadian supply. So what's
going on? Why are we even here?

We're here because this is an industry that has
grown accustomed to the perpetual existence of trade
protection. It's an entitlement that they've come to
expect, and in doing so they take this Commission for
granted.

Based on the record facts, we respectfully
suggest it's time for the Commission to just say no to the
Coalition's overreaching.

Conditions of competition in the U.S. lumber
market do not work the way the Coalition would have the
Commission believe. As our economists and our home builder
witnesses will demonstrate today, this is not a market in
which the U.S. industry's fortunes are adversely affected by
the increase in Canadian market share.

Lumber is not a fungible commodity the Coalition
claims it is. Much of imported Canadian lumber feeds
particular applications in new residential housing
construction that is finally on the mend after years of
recession.

And every single forecast indicates that demand
will continue to grow, and U.S. industry performance will in
turn continue to improve into the foreseeable future.

With that, let me turn our presentation over to
the rest of the team.
STATEMENT OF JIM DOUGAN

MR. DOUGAN: Good afternoon. I'm Jim Dougan of ECS appearing on behalf of Respondents.

Throughout the Commission's prior investigations of softwood lumber, certain conditions of competition have been established and remain relevant to the current investigation.

First, demand for softwood lumber is driven by new home construction and repair and remodeling, or R&R. Residential construction over the POI has been low by historical standards, but has been increasing from the severely depressed levels experienced during the housing crisis, and is projected to continue into the foreseeable future.

Second, species is a primary factor in purchasing decisions. This was confirmed by staff in Lumber IV, where it noted that, quote, "Species was cited most frequently as purchasers' primary factor in buying decisions." End quote.

Given this, it is important to note that there is a clear division by species of softwood lumber produced in the U.S. and softwood lumber produced in Canada.

The witnesses from NAHB and Dr. Kirgiz from Cornerstone will explain the limited substitutability between U.S. and Canadian species, but the Commission has recognized that different species are used in different
applications.

Third, the parties agree that the U.S. softwood lumber market is cyclical.

Fourth, the U.S. softwood lumber market is subject to periods of price volatility. In fact, the Commission found in Lumber IV that prices changed frequently, as often as on an hourly basis.

The Petition acknowledges that this dynamic environment persists during the current POI, as did Mr. Yocis this morning.

Fifth, due to the large number of buyers and sellers, even within each species category, the U.S. softwood lumber is a price taker market. This has been confirmed by the Commission staff and Petitioners themselves, and in fact by the panel this morning.

Sixth, as another consequence of the complicated pricing dynamics of the industry, the Commission's traditional approach and data sources have consistently proven to be insufficient for analyzing underselling in the U.S. market. The Commission recognized this in Lumber IV and Petitioners seem to agree.

Seventh, the 2006 Softwood Lumber Agreement, or SLA, represents a significant condition of competition, and Mr. Parnes will discuss how the SLA should inform the Commission's analysis.
I turn now to the basic demand and supply conditions relevant to this case. Over the past ten years, the softwood lumber market went through a severe cyclical pattern encompassing the peak of the housing bubble, the bursting of that bubble, and the crash and slow recovery that followed.

Accordingly, the evidence supports the consideration of demand trends during the POI and into the foreseeable future as part of an ongoing recovery from the housing crisis.

As shown at this slide, the housing bubble, as measured by U.S. housing starts, peaked in 2005 and correspondingly so did demand for softwood lumber.

When the bubble burst, demand for new construction and softwood lumber fell as well, and between 2005 and 2009 housing starts fell by 73 percent, and consumption of softwood lumber by 51 percent.

The recovery has been slow but steady, including through the current POI. To date, apparent U.S. consumption has recovered only about half of the demand lost during the housing crash.

During the recovery, a combination of factors has resulted in under-building relative to underlying demand for housing. But as new construction ramps back up, the tide is expected to turn and FEA, Forest Economic Advisors, notes
that pent up demand will be a key driver of the multi-year housing boom that they are expecting.

The housing boom will spur demand for softwood lumber as there is, and has consistently been, as you can see on this slide, a very clear correlation between the share of softwood lumber going to new residential construction and the level of U.S. demand overall.

The supply necessary to meet all of this increased demand will increasingly come from the expanding capacity of the U.S. industry, though imports from Canada will continue their historical and necessary role as a significant source of softwood lumber for the U.S. market.

When the housing bubble burst, demand for softwood lumber fell by more than 50 percent. But U.S. lumber capacity fell by only 10 percent from its peak in 2006 to the trough in 2010. Since then, it has increased gradually and is currently about 5 percent higher than it was in 2001, the last full year of the Lumber IV POI.

The lion's share of this growth in capacity has come in the U.S. South, which in 2016 accounts for roughly 50 percent of U.S. capacity. Capacity in the West is projected to increase slightly in the near future, but not as much as in the South.

The growth in the South has been fueled primarily by the abundance of timber supply due to the amounts that
were not harvested during and after the housing crisis. You can see this increased timber supply on the slide.

As shown on this next slide, this availability has the effect of pushing costs down and, as a result, margins up for softwood lumber producers. And public data indicates that as of 2016 variable costs for softwood lumber producers are the lowest in North America, not just in the U.S., in North America.

Wood markets observed in September 2016 that since 2008 the U.S. South has had some of the lowest delivered log costs in the world, as well as the highest earnings. We've heard a lot about cheap logs in Canada. They are lowest in the South in all of North America.

The attractive economics of lumber production in the South have driven a significant amount of investment. Capacity in the South has increased by nearly 2 billion board feet, or 10 percent, since 2013. And as of September 2016, there are 15 Greenfield mills, restarts, or expansions underway that will increase capacity further. This is not a temporary phenomenon as Petitioners said this morning. Companies are not making these investments for a short-term outlook.

That situation is quite different, however, in Canada.

During the housing crisis, softwood lumber capacity contracted much more severely than in the United
States. From its peak in 2006, it fell by 8.5 billion board feet, or 23 percent. This is roughly twice the capacity decline that the U.S. industry experienced both in absolute and in percentage terms.

Moreover, since that time, capacity in Canada has increased by only about 3 billion board feet, far less than half of the decline. And it's now 2 percent below its level at the end of the Lumber IV POI in 2001, and 15 percent below its peak in 2006.

Not only is capacity in Canada not expected to reach its previous level, it is in fact projected to decline as Potlatch put in its investor presentation. This is a reality acknowledged by every industry analyst and the U.S. industry itself.

A most important reason for this decline is the effect on reduced timber supplies of annual allowable cuts, or AACs, especially in British Columbia, which represents 50 percent of 2016 Canadian capacity, and 52 percent of exports to the United States during the POI.

But in the 15 years since Lumber IV, BC has experienced the worst ecological disaster ever to strike a North American forest in the form of the Mountain Pine Beetle, or MPB, epidemic.

The scale of the devastation to the British Columbia pine forest is unprecedented. The total cumulative
losses from the outbreak are projected to be 58 percent of merchantable pine volume by 2017.

During the POI alone, AACs in BC have decreased by 6 percent, or 4.5 million cubic meters. And current Provincial estimates indicate they will decline by another 3 million cubic meters, or an additional 4 percent, by 2020.

The effects have been most devastating in the BC interior where the largest sawmills are located. Over 2014 and 2015, Canfor's Quesnel Mill and West Fraser's Houston Mill with combined capacity of 750 million board feet shut down. This was followed by the December 2016 closure of Talca, an additional 250 million board feet of capacity. All cited reduced timber supply from the Pine Beetle epidemic as the reason for the closures. This is a billion board feet of capacity.

But despite the supply constraints described, Canada will retain its historical role in the future as a significant supplier to the U.S. market, as it provides softwood lumber products that fill particular end-use requirements and regional preferences in a way that U.S. softwood lumber production alone cannot.

At this point I turn to our fellow witnesses to explain the lack of substitutability between lumber from the U.S. and Canada.

STATEMENT OF BARRY RUTENBERG
MR. RUTENBERG: Good afternoon. My name is Barry Rutenberg and I'm the Chairman of Arthur Rutenberg Homes. We have 43 franchised home building operations in the Eastern U.S. focused on building custom luxury homes.

Our 100-plus corporate employees provide services, including purchasing and design support to these builders. We work with builders closely and have good insight into the materials they use and why.

Our builders are predominantly in the Southeast, Florida, Georgia, North and South Carolina, Tennessee, with small new operations in Ohio and Indiana.

In addition, I was Chairman of the Board of Directors of the National Association of Home Builders in 2012, and am appearing today on behalf of NAHB.

I am here to provide you with the real-life experience of someone who has been building homes for 40 years. Having testified before the Commission previously, I appreciate your disciplined approach to understanding the facts about this industry, and I offer my expertise for that purpose.

In my experience, lumber is purchased primarily by species based upon past performance of the wood. I know what I prefer, and I don't switch species unless required by Code or engineering. I see our builders following the same pattern.
Our builders aren't reinventing the wheel every time they start a new house. They rely on techniques and materials that have worked for them in the past. In home building there's significant up-front investment of time and money in designing and engineering building plans, and in obtaining the necessary approvals and permits for building.

Once the designs are approved, builders would like to be able to submit the same documents for future homes. If you were to change the materials, you might need to resubmit the plans to zoning and building officials. Changes in materials might cause significant delays which would hurt both the home buyer and home builder. I don't know if any of you have ever built or remodeled a home, but if you did you might know that one change can have a cascading effect on the timing of the project and can have a significant impact on the price you ultimately pay for the work.

The preference for SPF in framing applications is driven by the superior stability and workability of SPF. I use SPF because it provides straighter walls. My experience is that Southern Yellow Pine is much more prone to warp and twist on drywall surfaces, both horizontal and vertical. Particularly for any contact with drywall, the Southern Yellow Pine will more likely cause the nails to work themselves out and cause other imperfections that would
be apparent to the homeowner.

I don't know of any builders who use Southern Yellow Pine for framing walls. Maybe some do, but not in my experience, unless required by code or by engineering. People who prefer SPF would not substitute Southern Yellow Pine. In past market disruptions, we've gotten some substitute products from international markets. In the end, we would really just be driving up the cost of the homes.

It is performance that drives the choice between Southern--SPF and Southern Yellow Pine, not the price. Southern Yellow Pine is often used as joists and outdoor applications and is preferred for all applications that call for pressure-treated lumber.

When treated lumber is required by building codes, it is Southern Yellow Pine. You wouldn't substitute SPF because SPF does not absorb the chemicals well and is not generally sold as treated lumber. Treated lumber is also preferred for outdoor applications like posts, decking, railing, fences, pickets, and the like.

I would encourage the Commission to take into account the demonstrated preference by builders for SPF for framing. Builders rely on consistent performance of SPF and the drawbacks of using Southern Yellow Pine in its place are such that an increase in price due to antidumping or countervailing duties is not going to cause builders to
flock to Southern Yellow Pine. It just doesn't deliver what
they need.

Choices between building materials are not made
on price but on performance. I hope my testimony has been
helpful, and I would be happy to answer any questions you
have.

STATEMENT OF RICHARD G. MILLMAN

MR. MILLMAN: Good afternoon. My name is Richard
G. Millman and I am President of Millman Lumber Company. We
are a family business located in St. Louis, Missouri. We
serve customers in 14 states, from Kansas to Pennsylvania,
and Michigan to Texas.

Millman Lumber sells wholesale through its six
Forest Products Supply divisions, and retail in St. Louis through
Great Central Lumber Company, a family-owned business.

The company was started in 1932 by my father. We
now have about $330 million in annual revenue and employ
over 350 people. I have been in this industry since 1972,
having filled such roles as purchasing agent, sales manager,
vice president, and president and CEO since 1987.

We purchase lumber from a variety of mills across
the United States, including Western, Inland, and Southern
United States and Canada. Whether we are purchasing for our
wholesale business or our retail yard, we cater our
inventory to home builders.
The customers for our wholesale business are lumber yards, but they eventually sell the lumber on to builders. As a result, the type and quantity of lumber we purchase is driven by what home builders in our area require.

Our purchases are made by species and dimension. The specification sheet is normally provided by an architect or engineer. They specify what materials they require. We will provide a customer with whatever they want, but we tend to know what they'll ask for and build up inventory on that basis.

We carry SPF, Doug Fir, Hem Fir, Southern Yellow Pine, and pressure-treated and fire-treated Southern Yellow Pine.

There are three basic components to building a house: flooring, framing, and roofing. Framing is the most lumber-intensive and it accounts for about 40 percent of all the lumber that goes into a single house. In the market we serve, the vast majority of the lumber used for framing is Canadian Spruce Pine Fur.

Our customers are creatures of habit with respect to the materials they use. While all builders are sensitive to cost, the decision on what species to use in home building is not driven by price. It is driven by personal preference and tradition.
Even if there is a change in price, builders will rarely change their methods. We have spent a lot of time trying to figure out why it is that builders have and keep such strong preferences for using a certain species. But when it comes right down to it, I honestly believe that if someone's granddad used SPF, they are likely to use SPF.

We do see some folks who prefer domestic species for framing like Douglas Fir or Hemlock, but it is absolutely the majority SPF for framing applications in the markets I serve.

What I heard this morning from the panel about competition between SPF and U.S. species doesn't reflect my experience in the marketplace. The strong preference of builders are intractable.

Let me give you an example. We have a distribution center in St. Louis and carry 100 percent SPF studs. Not a stick of Douglas Fir studs. In Kansas City, which is only 200 miles away, we have a mix of 80 percent Douglas Fir and 20 percent spruce. In Oklahoma City, we carry 100 percent Douglas Fir and not a stick of Southern Yellow Pine or SPF. And Oklahoma is a Southern Pine producing state. The trucks from the mills literally run by our distribution center.

But we don't carry it because the preference in that market is not for Southern Pine. I have been in this
business for over 40 years, and the preferences of builders are consistent within markets. And it doesn't change even when the prices are different.

In Kansas City where both are offered and offered at different prices, people buy their historical preference, not the one that is cheaper. My point is, as between SPF, Doug Fir, and Hem Fir, it is driven by the builder preference not driven by the price.

The difference between performance is even more dramatic between SPF and Southern Yellow Pine. SPF is preferred for framing because of its stability, light weight, and ability to hold fasteners. This is especially important during the drywall phase.

Framing done with Southern Yellow Pine is prone to warping, and that is why SPF is preferred. It will stay straight, hold fasteners well, and will make it easier for everyone down the line.

Southern Yellow Pine, on the other hand, is preferred for roofing and flooring. Southern Yellow Pine has good strength properties and is generally available in larger spans.

I have brought some samples to show you, and I will pass them around. The first sample is a piece of Spruce. This was not hand-picked by me. I asked our yard person to go out. He didn't know I was going to this. But
you will see it. It's a little bit lighter in color, which the people at the home centers prefer, it's lighter weight, and I'll pass it on to the people up in front.

You'll see the growth rings here, which is the main thing in the stability of wood. The tighter the growth rings, the more stable the wood is.

On this piece over here, once again this is Southern Pine. This is normally cut from plantations. You can see the growth rings here, and also feel the wood. So if you're a customer going to a Home Depot or a lumber yard, you're going to have a choice of two. It's not the price. Like I said, certain people prefer certain things.

This is good on roof trusses. SPF is good in framing. So I'll pass it around to you, though. In Canada the trees grow slower due to the short growing season, so the rings are closer. You'll see that in all Canadian wood.

The tight grain has less tendency to expand or move. The builder prefers Spruce because it is lighter and straighter. The Southern Yellow Pine is grown a lot now on plantations. The panel before mentioned 25 to 30 year growth span for that. Canadian trees will take 70 to 100 years, the bigger span between the rings.

The bigger the grain, the more movement in the wood. That causes the Southern Yellow Pine to crook. The bottom line is that the builder chooses the product based on
Thank you, and I look forward to any questions you might have.

STATEMENT OF KIVANC KIRGIZ

MR. KIRGIZ: Good afternoon. My name is Kivanc Kirgiz. I'm an economist with Cornerstone Research. I was asked by the respondents to analyze, from an economic perspective, the substitutability between lumber imported from Canada and lumber produced in the U.S.

My analysis shows that the degree of substitutability is low. As the relative prices of imports from Canada and domestic products change, economic evidence shows that consumers do not substitute from one to the other in any significant degree. The reason why this is the case is that imported and domestic lumber are what economists term "differentiated" products.

As a general economic principle, the more differentiated products are in their applications, the lower is the elasticity of substitution. Lumber imported from Canada and produced in the U.S. largely originate from different species of trees. That's why they have different attributes and are better suited for different end users, as you've already heard from prior witnesses.

In this slide, the bars to the left show the species breakdown of U.S. lumber. The red bars to the right
show the same imports from Canada. About 87% of imports
from Canada are SPF. In contrast, only about 5% of lumber
produced in the U.S. is SPF. The species most commonly used
in the U.S. is SYP with 53% share. Virtually no SYP is
imported from Canada. The second most common
species in the U.S. is Doug Fir with 24% share. In contrast,
only 3% of imports from Canada are Doug Fir.

In Lumber IV, responses to the
purchasers' questionnaires show that the number one factor
that impacts economic purchasing decisions was species.
Commission found that differences in physical
characteristics between species, as well as customer
preferences, limited substitutability. At that time the
staff determined the elasticity of substitution to be in the
range of two to five.

In Lumber IV, respondents submitted an economic
report that estimated the elasticity of substitution and
found it to be lower than the range estimated by the staff.
Since Lumber IV, several academic studies estimated the
elasticity of substitution. This slide summarizes the
findings of these economic studies.

The Y-axis is the magnitude of elasticity of
substitution. On the X-axis, we summarize the different
studies. These studies use various sources, methodologies
and time periods. One of them even collected data by
surveying builders. Despite these differences, their findings are remarkably consistent.

They all find lower elasticity of substitution between Canadian and U.S. lumber species. The estimates range from 0.03 to 1.46, but are all below the lower end of the staff's estimated range in Lumber IV, which is shown in the shaded area. Thank you for your time.

STATEMENT OF ERIC PARNES

MR. PARNES: Hello again. I'm Eric Parnes with Hughes Hubbard. Just want to talk about another important condition of competition, which is the 2006 Softwood Lumber Agreement. The SLA was in place for thirty-three of the forty-five months of the POI, but we didn't hear much about it earlier today, so I want to talk to you a little bit about how it worked, to give you some background.

Under the SLA, Canadian provinces were able to choose between two options for export measures. With respect to price under both options, no export measures applied when prevailing lumber prices exceeded $355 per thousand board-feet. Now, with respect to volumes, the idea of 34% of U.S. market share figured prominently in calculating limits on Canadian exports to the United States.

For Option A, the SLA included a surge mechanism that authorized a 50% increase in the export tax, if a
regions' exports exceeded a trigger volume which was based on its share of 34% of U.S. consumption.

For Option B, 34% of U.S. consumption defined the high-end of volume restrictions when prices fell below $355. 34% was the share of U.S. consumption held by Canadian softwood lumber in 2001 when the Commission found no current injury in Lumber IV. And it's roughly the share in 2006 when the SLA was signed.

It's important to emphasize that during the majority of the POI, the SLA imposed no export restrictions on Canadian producers. For twenty-four months during the POI, the SLA was in effect and prices exceeded $355 per thousand board-feet, so no export taxes or volume restrictions applied. And of course, no export taxes applied after 2015.

That means for thirty-five of the forty-five months in the POI, Canadian exports of softwood lumber were not subject to any export measures. With this context, the important thing to keep in mind about the SLA is what the U.S. industry represented as part of its bargain.

U.S. softwood lumber producers accounting for the majority of domestic production represented that the SLA removes any alleged material injury or threat of material injury to the U.S. softwood lumber industry from imports of softwood lumber from Canada.
And here's another letter to the same effect. Both of these are from members of this morning's panel. The majority of the POI coincides with the period in which the U.S. industry acknowledged that it suffered no injury. And once again, that was also a period largely free of exports restrictions.

Now the coalition claims in the petition that Canada failed to fully implement the terms of the SLA, and that somehow deprived the domestic industry of its protections. But that just doesn't make any sense in context.

First, the conduct that led to the arbitrations that are described by the coalition happened well before the POI. Even if the coalition accurately characterized the issues and outcomes of those arbitrations and we don't think that they did, but even if they had, there's no basis to suggest that they had any effect on the POI.

Second, the coalition supported extending the SLA for two years beyond its original expiration date of September 2013. For the coalition to now claim that it suffered injury while the SLA that they supported remained in effect is disingenuous at best. Thank you.

STATEMENT OF COLIN BIRD

MR. BIRD: Good afternoon. I'm Colin Bird, Minister-Counsellor for Trade at the Embassy of Canada. I've been involved in the softwood lumber file since 2004
and from 2009 to 2014, I directed the softwood lumber division at Canada's Foreign Ministry, now Global Affairs Canada.

I understand that there are questions about the appropriate data source for import volumes in this case. I am familiar with U.S. and Canadian export/import data, having had responsibility for reconciling them under the Softwood Lumber Agreement. I'm also aware of efforts to address discrepancies between U.S. Census Bureau data and Statcan's data that emerged after the SLA expired in October 2015.

There are three relevant data sources. First, Canadian export permit data. Second, U.S. Census data based on U.S. customs inputs. Third, Statcan's data based on data from the U.S. Census, but subject to a validation process.

Accurate tracking of export volumes is critical to administrating of the SLA export measures and to stakeholder confidence. Article 15 of the SLA required us to exchange aggregate monthly data with U.S. customs for reconciliation.

Canada and the U.S. agreed to exchange data at the transactional level through a very active technical working group. We went to this level in large part because U.S. data systems had not been designed to collect the data required under the SLA.
The majority of the transactions that needed to be corrected were on the U.S. side. That is, as the data were reconciled, U.S. Customs data tended to move towards Global Affairs data. We would routinely see large volume errors in the initial U.S. data related to conversion errors between cubic meters and board-feet, and errors due to a decimal requirement in U.S. data fields that was subject to broker input error.

Reconciliation would continue until U.S. customs was fully satisfied. We reached an extraordinary level of data matching. Global affairs always adopted the corrections. U.S. customs was free to correct or not. This flexibility meant that U.S. data sometimes differed from permit data. Permit data was the more accurate of the two and was what the parties relied on.

The last reconciliation was August 2015. We did continue sharing data after August 2015, covering the entire duration of the SLA. Canada offered to continue reconciling data after the SLA expired, but the U.S. declined.

After the SLA expired, we began to see higher volumes in Census and Statcan's data than in permit data. Global Affairs notified Statcan, sharing the transaction specific information that we had previously provided to U.S. customs under the SLA.

Statcan identified and corrected about three
hundred aberrational transactions. These aberrations were huge. Unit values or orders of magnitudes smaller than what is typically seen. For example, a typical transaction would be a railroad car valued at $50,000, 250 cubic meters. Statcan found values of $50,000, but associated with volumes of 30,000 cubic meters. No company would reserve 120 railcars for a $50,000 product.

I should stress that Statcan's review is precisely what we would do with U.S. customs as a matter of routine while the SLA was in effect. Statcan has notified U.S. Census of these corrections and they have begun to be captured with August 2016 U.S. Census data. For revisions to prior months I understand that the U.S. Census does an annual correction, which is scheduled for June/July 2017. Statcan revises each month, meaning it has the most up-to-date data.

U.S. has industry analysts who usually rely on U.S. Census data have chosen to use Statcan instead. This includes Henry Spelter, the former U.S. Forest Service Economist who is now at FEA, and David Fortin and Robert Berg from RISI, who have noted that Statcan's data are "more realistic, given other reported industry market statistics."

We therefore believe it would be appropriate for the Commission to rely on Statcan's data. Thank you.

STATEMENT OF JIM DOUGAN
MR. DOUGAN: Jim Dougan again. Colin's discussion of import data is a perfect segue into our volume effects analysis because for purposes of this presentation, I measure subject imports based on Statcan's data, which we believe to be the most accurate and correct source based on what he said. But respondents submit that the subject import volume is not significant using either data source for a number of reasons.

First, as shown at this slide, imports increased during a time of growing demand, along with increases in domestic industry shipments. Second, as shown in the next slide, absolute subject import volumes are lower than in any year prior to the housing crisis going back to 1995. Third, shown at the next slide, subject import market share over the POI has been low by historical standards, which typically was in the range of 33 to 34%. Imports from Canada maintained this historical share prior to the collapse of the housing bubble when new residential construction was driving softwood lumber consumption. But as shown on the next slide, when the housing market crashed, so did new residential construction and along with it, subject import market share. Since then, Canadian market share has followed the same upward trend as the share of softwood lumber used in new residential construction. What's more, as shown on the next slide, the
absolute volume of imports from Canada has closely tracked
the increases in consumption for new residential
construction.

Fourth, Canada market share during this POI
is below the level in Lumber IV not found to be causing
material injury to the domestic industry and below the 34%
level prescribed in the 2006 SLA as being non-injurious.

So notwithstanding the small increase in
subject import market share over the POI, if the domestic
injury wasn't injured by reason of subject imports in Lumber
IV or during the 2006 SLA, it cannot be injured by reason of
subject imports now. This is especially true given the
strong increases to the industry's performance over the POI.

The domestic industry showed no indication of
adverse volume effects for the twelve months after the SLA's
expiration. All volume indicators were stable to increasing
compared to the prior year. FEA, which is the source for
the nominal capacity figures, is also the source cited in
WWPA's calculation of the Practical Capacity Utilization
there on the table. Petitioners rely on the
WWPA Practical Capacity Utilization figures
in the petition, there on Page 57. Thus, to the
degree that the questionnaire data end up being
closer to the FEA numbers than the WWPA numbers, it is
likely that the producers are responding with their nominal
rather than practical capacity.

On the next slide, it shows that there's no evidence of adverse volume effects over the Commission's traditional three-year and interim year comparisons. And utilization has increased steadily, from 80% in 2013 to 83% in 2015 to 86% in part-year 2016. And the latter figure is broken out by Lumber Track, and it shows utilization of 90% in the U.S. South, and 82% in the U.S. West, and we are confident that the questionnaire data will confirm this absence of adverse volume effects.

There is similarly no evidence that subject imports from Canada have caused adverse price effects to the domestic industry. The pricing data collected thus far in the current investigation are consistent with the understanding that traditional ITC underselling analysis cannot be applied effectively in this particular market. But publicly available pricing data can provide useful indications of trends.

And as shown at this slide, all major price composites of U.S. species reported by Random Lengths rose between October 2015 and September 2016, all after the expiration of the SLA and all while imports from Canada were increasing. Additionally, the Random Lengths Framing Lumber Composite Index, or FLCI, which was the basis for determining export tax levels during the SLA, increased by
And while not depicted here, we note that the U.S. prices for Canadian species increased by even more than U.S. species. The record evidence for the post-SLA period is thus the exact opposite of what one would expect to see in the case of adverse price effects.

Respondents submit that the Commission should focus on the recent pricing data as that information is most relevant to whether prices of subject imports are currently having an injurious effect, and that data is from the post-SLA free-trade period, during which petitioners implicitly claim to have been the most vulnerable. That said, there's also no indication that imports have caused adverse price effects over the full POI.

Despite strong overall years for the industry in 2013 and 2014, prices declined from the high peak in 2013 through 2015, reflecting the volatility experienced in the market as demand fluctuated. Always on a general upward trend, but sometimes growing less than expected.

The record contains no persuasive evidence, however, that any such decreases in price occurred by reason of subject imports. Indeed, subject imports gained only modest market share while prices declined over the first three years of the POI and then gained greater share when prices increased strongly between the interim periods.
A similar logic applies to the question of whether subject imports from Canada have caused any adverse impact to the domestic industry. And it's important to put the POI in context. Prices were high and industry performance was strong in 2013 and 2014, even in the midst of the market's slow recovery following the housing crisis. In fact, as shown at this slide, public data from Weyerhaeuser's investor presentation, performance in 2013 was much improved from 2011 and 2012, even though subject import volume and market share increased over that period as well. Even the financial data provided in the Petition cut any causal link between subject imports and the condition of the domestic industry. Despite an increase in subject import market share between the interim periods, production, shipments and capacity utilization all increased. And the latter is especially noteworthy because capacity increased as well. The domestic industry's financial performance appears to be even more impressive, with an increase in operating margins from 8% in Interim 15 to 11% in Interim 16, and the questionnaire data thus far indicate even better results. By way of comparison, the industry's operating margin was 1.8% in 2000 and 1.3% in 2001. And the Commission found that this did not constitute current
material injury. While the industry's performance declined in 2015 from very strong years in '13 and '14, petitioners have provided no compelling evidence or argument why a modest increase in Canadian market share from 2014 to 2015 caused such a decline in profitability, while a more substantial increase in Canadian market share between the interim periods was accompanied by such a strong increase in profitability.

We note also that the coalition claims that imports from Canada have caused substantial mill closures during the POI, citing 78 curtailments in the U.S. Most of these were for two weeks or less. Indeed, over 80% of the curtailments were for mills currently operating or for sites for new mills under construction. Virtually all of the mills that closed permanently during the POI did so because of log shortages or issues with mill equipment, and none of the mills cited imports from Canada as a cause.

But as weak as the petitioner's current material injury case may be, its threat case is even weaker. The industry's not in a vulnerable state, as its trade and financial indicators all improved, most strongly in the most recent part of the POI, and it has made and continues to make substantial investments and additional capacity, especially in the south.

The demand outlook is exceptionally strong. As
shown at this slide, due to the pent-up demand discussed earlier, new residential construction activity is projected to be strong for many years to come. And this means, as shown on the next slide, that demand for softwood lumber is expected to be strong into the foreseeable future as well.

Respondent's post-conference brief will address each of the statutory criteria, but it's obvious that pricing trends that we've seen don't point to any likely adverse price effects. The FLCI grew by 12% post SLA, and for much of that period, was above the $355 trigger price, above which no export taxes would be applied under the SLA.

Second, the severe capacity constraints in Canada mean there's low likelihood of substantially increased imports in the imminent future. Lumber Track estimates utilization in Canada for the January to September period as 90% and 92% in British Columbia. It's clear there's little available capacity left.

Finally, producers in Canada are unlikely to divert shipments from other markets to the U.S. in the imminent future. Over the last decade, Canadian producers developed export markets in Asia to offset the decline in demand after the bursting of the U.S. housing bubble, and to find alternative markets for the lumber affected by the Pine Beetle epidemic, which was not of a quality generally acceptable to U.S. softwood lumber consumers.
As shown at this next slide, exports to Asia were 14.1 billion board-feet during the current POI, more than double the 6.2 billion board-feet during the Lumber IV POI. Thus, this alternative export market is a new condition of competition from the most recent case. And there's no evidence that producers are likely to divert shipments to the U.S. market to a significant degree.

The next slide shows that part-year exports to Asia in part-year '16 were higher than for the equivalent period in '15, despite the expiration of the SLA. Second, much of the lumber exported to Asia was affected by the Pine Beetle epidemic and is not of a quality generally acceptable for use by U.S. consumers.

In summary, the U.S. softwood lumber industry is neither suffering current material injury nor is it threatened with future injury. Thank you.

STATEMENT OF MYLES GETLAN

MR. GETLAN: Good afternoon. My name is Myles Getlan of Cassidy Levy Kent, appearing on behalf of Western Forest Products and Interfor, both producers and suppliers of western red cedar.

The Commission should find that western red cedar is a separate like product. I listened to the coalition's industry witnesses this morning, representing all regions, identifying the species they produce and with
which they compete. No mention of western red cedar. And Mr. Miller said twice, wood is wood. Respectfully, we could not disagree more. Western red cedar is a genuinely unique product. And there are clear dividing lines between western red cedar and other softwood lumber products covered by the petition.

Western red cedar possesses unique physical characteristics such as its warm, reddish color, natural resistance to decay, softness and lightweight that make it unique suitable for decorative outdoor applications. You would never hide western red cedar inside a wall for the construction of a house as you would the dimension and framing lumber that is at the heart of this case.

Purchasers of western red cedar do not look to other softwood species as a substitute, but rather non-wood substitutes, such as vinyl or composites. One advertisement for western red cedar makes this exact point, as you can see on the slide or on this board. "Real cedar -- because no one ever brags about their home looking like real vinyl."

Western red cedar also requires different manufacturing processes. Harvesting western red cedar often involves expensive helicopter logging and milling western red cedar is a much more labor-intensive and costly process. But perhaps most important is that western red cedar manufacturers, distributors and end-users function as
a distinct industry. Western red cedar has a dedicated
trade association, The Western Red Cedar Lumber Association.
Under the real cedar trademark, western red cedar is
marketed as a unique premium product that commands a
substantial price premium over other softwoods.

A number of U.S. lumber distributors and
remanufacturers have already come forward to tout the
uniqueness of western red cedar and we'll place those
letters on the record. One worth highlighting is from
Weyerhaeuser, which in the last lumber case, forcefully
argued that western red cedar is a separate like product.
We're gratified that such a key member of the coalition is
stepping up again to explain why western red cedar is a
separate like product.

If the Commission finds that there is inadequate
record to find that western red cedar is a separate like
product in this preliminary phase, we urge the Commission to
flag this issue for thorough and serious investigation in
the final phase. Thank you.

STATEMENT OF ELLIOT FELDMAN

MR. FELDMAN: Good afternoon. I'm Elliot
Feldman from Baker & Hostetler. I'm here with my partners
on either side of me, Mike Snarr and John Burke, on behalf
of the Central Canada Alliance of the Quebec Forest Industry
Council and the Ontario Forest Industries Association
softwood lumber group. With respect to one particular product, I am speaking on behalf of Resolute Forest Products.

I'm going to speak for a few minutes on two subjects. First, like products. The petition is about construction-grade framing lumber that it treats as a commodity. The only pricing data the petition requests from the Commission, at Pages 53 and 54 of the petition, are for studs, the only lumber identified as in head-to-head competition while claiming all studs are the same.

Through the HTS codes and the scope description, however, the petition sneaks in some products other than construction studs, like western red cedar, that are not construction-grade framing lumber. Indeed, not studs at all. U.S. manufacturers of these products are not identified.

Nothing is said about any of the criteria for like products, including their pricing, which does not remotely correspond to the pricing of studs. There is no allegation of injury or threat of injury. The petition doesn't request any information be gathered about them.

Instead, those petitioners involved with these products seem to think they can reduce competition for themselves in a free ride on the back of the lumber truck. Our clients are concerned about two of these products in
particular.

First, eastern white pine, the “other” on Mr. Kirgiz' slide. As Mr. Banahan conceded, it is an appearance-grade wood, whereas this case is about construction-grade. Botanical alchemy can't turn all softwoods into the same end products. It is the commercial use of a product, not its original raw material state in the ground, that should matter. As it matters to the customs code.

I brought a typical southern yellow pine stud. One is holding up the projector, and there's another one here for you to see. And an eastern white pine board so that you can compare them. Mike, if you want to pass them along.

The Commission looks at competition between products, interchangeability, manufacturing process, price. The stud and the white pine board are not alike, nor are they interchangeable. All they have in common is that they're both made of wood. And with respect, wood is no more just wood than all plastics are plastics, or all steel is just steel.

The appearance of a stud doesn't matter. It's hidden behind walls. Eastern white pine, by contrast, is an appearance-grade wood, you buy it and it's manufactured just like a hardwood. Like oak or mahogany, it's made to be seen
in window sashes, doors, trim, toys and furniture. Mr. Banahan conceded all of those uses in distinguishing eastern white pine himself.

You pay a price for it to be seen. Eastern white pine will not hold up a house. You can feel how much lighter it is than the southern yellow pine stud, and if it could, it would be wildly too expensive to use for this purpose. Mr. Banahan testified himself that eastern white pine has no structural use. And this morning he asserted that Pleasant River is losing in competition with eastern white pine from Canada. But what proof did he or the petition offer?

He asserted price, but he offered not a single example, not a single price. Neither did the petition. On none of the Commission's like product criteria is eastern white pine like any of the four studs referenced in the petition. And Pleasant River's eastern white pine is not competing with them.

We're concerned about a second like product. And I brought you some samples of that as well, that Mike will show you. Bedframe components. Like eastern white pine, they're not similar in any way to the studs that are the true subject of the investigation, a fact that in an odd way, the petition acknowledges.

The petition excludes radius-end bedframe
components from the proposed scope, yet includes, without
explaining why, square-end bedframe components. Both are
required in the assembly of a bedframe. The samples are
here for you to see, and at the back of the Canadian slide
packet you're receiving is a picture and a sketch of how
they assemble.

Whether radius or square-end, all bedframe
components constitute a single like product that is
unique and distinct from softwood lumber. They can be used
only to make bedframes.

Bedframe components can't be used to hold up a
house. They can't be glued together to be a stud. They're
cut and sized for bedframes. They don't compete in any way
whatsoever with the framing construction lumber that is the
subject of the petition. You can't and wouldn't frame a
house with the components you would use for your box spring
and mattress. The petition contains not even a whisper
about injury or threat of injury to any U.S. manufacturer of
bedframe components.

The Commission opted fifteen years ago for a
theory it called a continuum. Everything made from a tree
grown from a conifer was deemed a like product, all as part
of the continuum. As if all plastics and many other
products manufactured from oil would all somehow would be like
products.
Since then, a line of cases has developed that recognizes distinct like products in automotive tires, stainless steel pipes, steel and aluminum wheels, coated free-sheet paper, sodium and potassium phosphate salts.

The petition claims, we think incorrectly, that all construction-grade studs are approximately the same regardless of species. It also claims, even more egregiously in our view, that all products produced from softwood trees, even those that are not studs and cannot be used for construction, are the same like product. It makes no distinction between appearance and construction grades and provides no information at all about the appearance-grade products. We hope the Commission, enlightened by its own recent determinations and focused on the failings of the petition, will get the wood products right this time.

My second subject this morning, as Monty Python might say, is completely different. The Commission may believe that it has heard it before, and I myself raised it here a year ago in another case. We don't think the Commission has heard it right. We ask in this preliminary phase only for open minds.

The Canadian Constitution, as you've heard this morning, conveys ownership of natural resources and therefore the forests to the provinces. Provincial
governments sell the rights to private companies to cut and
sell the Crown's timber. Allegations that Canadian lumber
producers don't pay enough for these rights are allegations
against provincial governments, each of which has its own
way to value and sell cutting rights and to maintain the
forests.

Because these provinces are different, the
Department of Commerce must and does investigate separately
each one. The arguments this morning that prices in Canada
for cutting rights are guaranteed and not competitive are
simply wrong. They are a caricature at best, an inaccurate
memory at the most.

The Commission must look at the nature of
alleged subsidies, which will expose the truth of this
matter when the time comes to do that. The Department
couldn't investigate provincial programs unless, applying the
trade law, it treated the provinces as countries.

The Commission in the past has erred in
asserting that the Department as the administering
authority, defines the country under investigation. The
statute defines country and surrenders no such authority to
the Department. The Commission then has conflated scope
with country. The Department does indeed define scope, the
description of the product, but not the country.

Consideration of separate injury determinations
for separate countries matters only in investigations that
find a threat of injury. The Commission has never found
more than a threat each time it has examined injury
allegations regarding softwood lumber, which is why in a
final phase this issue could become important.

For purposes of the preliminary determination,
we ask only that the Commission recognize that, should it
determine affirmatively that Canadian softwood lumber,
presumed to be unfairly traded, threatens the U.S. industry
with imminent injury, it will be necessary then, and only
then, to examine the nature of the alleged subsidies in
reference to each of the countries involved in the
investigation.

With the prospect that the Commission should
determine for each one separately whether its export of
softwood lumber to the United States causes a threat of
injury to a U.S. industry, the Commission will have before
it rates for each province to guide its analysis of injury
and threat of injury.

We'll set out in our post-conference brief the
Commission's like product analysis requirements. We'll
demonstrate why the Commission's erroneous thinking on this
subject fifteen years ago doesn't control this
investigation. For now, we've wanted only to sketch
essential facts. Bedframe components are for beds, not for
holding up houses. And hiding eastern white pine inside the
walls would be like using the gold you might've purchased
for the faucets, if you were a certain American political
figure, only for the hidden pipes. Thank you.

MS. HAINES: Thank you. Thank you for your
testimony. Mr. Ruggles.

MR. RUGGLES: I assume in your post-conference
briefs you're going to be giving the import numbers you want
us to use. If you could do that, maybe you know just flip
them out to me this afternoon or early Monday morning before
the post-conference it would be nice, just so I can have
them.

MR. PARNES: Yes, of course, we can do that.

MR. NICELY: When you say "the numbers"?

MR. RUGGLES: Well, you've come up with a bunch
of different numbers that you claim are the numbers of the
shipments from Canada to the United States.

MR. NICELY: Clarifying, the import statistics,
okay. Thank you.

MR. RUGGLES: Okay. And if I understand
correctly, the western red cedar and the white pine I
understand they're -- from my perspective, yes, they're
different in some things, still softwood lumber. Nobody's
disputing that. You're just disputing the use of it and
therefore should not be put into the petition.
MR. FELDMAN: We're disputing more than that, I think. There's softwood lumber under a botanical proposition because they are spawned by a conifer, but in every other respect they're hardwoods. They're produced in hardwood mills. They're produced according to hardwood methodology and they are treated as hardwoods. So we don't believe that it's appropriate to use a botanical definition for the purpose of determining a commercial use.

MR. GETLAN: Myles Getlan, for western red cedar. I wouldn't say that western red cedar is a hardwood, but by the same token it's a softwood, but a separate like product for all the reasons that I've described.

MR. RUGGLES: Okay.

MR. GETLAN: And that we'll describe in more detail in our post-conference.

MR. RUGGLES: And then the other is your contention that it's SPF, Canadian; southern yellow pine, U.S., those are the two big dogs, right?

MR. NICELY: The two largest species at play in this market, yes.

MR. RUGGLES: Does southern yellow pine get shipped to Canada at all? In any meaningful way, let's put it that way.

MR. NICELY: To our knowledge, no.

MR. RUGGLES: And the allegations would be the
SPF challenges SYP and the U.S. market.

MR. NICELY: Does it challenge SYP in the U.S. market?

MR. RUGGLES: Does it compete against it head-to-head or they're just two different things and there's no competition?

MR. MILLMAN: There's competition in certain areas. Framing would be the least amount -- yeah, southern pine is not to deal. As I showed you in my sample for framing it's not good. In roof trusses, they could compete in some areas because roof trusses are by a stress rate. It's call MSR lumber.

MR. RUGGLES: Right.

MR. MILLMAN: And southern pine makes MSR lumber and Canada makes MSR lumber, so in those markets they could compete.

MR. MILLMAN: But according to the specifications used, SPF, to give you an example, for a number two lumber has an 800 fiber bending strength. That means at 800 pounds that would break. Southern pine, on the other hand, has a 1400 fiber bending rating. So southern pine has certain characteristics that exceed spruce where they don't compete. Like in roof trusses, you couldn't use SPF where the architect specified southern pine because the characteristics of the wood wouldn't match.
So I would say, overall, in framing they do not compete. They could compete in roof trusses, but it'd have to be a certain grade. It would have to be not all spruce is equal to southern pine, by definition it's a lighter wood, if that helps you a little bit.

MR. RUGGLES: Yes, it does. Thank you.

And then lastly, when the builders are purchasing lumber, when you're going through your bundling I would assume that you get trusses, you get studs, you get whatever, you'd buy them individually. Do you buy them as a bundle, all different things; therefore, you'd have the southern yellow pine in with the SPF?

MR. RUTENBERG: We buy them individually. The trusses are one separate purchase. You may have some framing to fill in some section, valley sets, but normally those would come out with the truss set from the truss company if they do it right.

We split up our wood when we purchase it. We actually do a line-item pack. Our line items we do our take offs and we have it down to the stick and that's how we price it out. Nobody's going to have all the wood delivered at one time because it disappears, but not into your house and so we break it up in separate loads.

Suppliers do not like to be cherry picked and there's normally some breakdown -- you know everything is
priced individually. It's selected individually and it's probably bought in bulk as a framing package.

MR. RUGGLES: That's all I have for now.

MS. HAINES: Ms. Turner.

MS. TURNER: Good afternoon. Thank you for joining us today and answering our questions, which will probably be quite a few of them.

Let me start with the legal question, domestic-like product, that's the first thing the Commission will consider, so let me first ask. I have some specific questions for Mr. Groden and Mr. Getlan.

But let me first ask the others whether, in fact, they are alleging they're a separate like product or that they, for purposes of the preliminary investigations, agree with the proposes single-like product.

MR. NICELY: On behalf of the Government of Canada, we don't plan to address any other like products in the post-conference brief. We support arguments made by the other parties and any arguments that would lead to the limitation of the extent of any relief, should it be granted, but we're not going to address it in our briefs.

MS. TURNER: So that is one that you're not raising a single domestic-like product and you're not opposing the single domestic-like product for purposes of the preliminary?
MR. NICELY: That's right.

MS. TURNER: Okay, so any of the other parties, homebuilders? No?

MS. MOWRY: No. On behalf of NAHB, no, we don't plan to address that either.

MS. TURNER: BC, I know you didn't testify, but you are here.

(Pause.)

MS. TURNER: So let me then get to asking specific questions about the like product. So why don't I start with the western red cedar? Now this argument was made similarly in the 2002 investigations.

First, what's changed in terms of why is this different? At that point in time, I believe, also there was actually a difference between indicating that western red cedar should be a specific like product, but not other cedars. That those should not be a separate like product or redwood as well; is that still what your argument is now?

MR. GETLAN: So a couple of things there. Again, Myles Getlan.

I'm familiar with the record that was developed for treating western red cedar as a separate like product in the 2002 investigation and I would say I believe that the Commission got it wrong thing. I think the record supported separate like product treatment. We think sort of the
analytical framework that was used in that case was incorrect.

Mr. Feldman alluded to it as well. It was essentially a shared characteristic here or a shared end use there, pointing to different species treating everything as a same like product and we think that's incorrect. It's really no different than treating most primary steel products as a single like product and the Commission has not done so there, so just --

MS. TURNER: They have actually done that in the safeguards case.

MR. GETLAN: And directly competitive, so we think in 2002 the record supported it then. There are some differences this time around as well and the market has changed a little bit. There was a fair amount of discussion last time on decking, sort of interchangeability or perceived interchangeability between treated pine and western red cedar. I think the way the market is developed, particularly, with respect to non-wood substitutes, premium composites it'll show more definitively in this case than it did in the last case that western red cedar and southern yellow pine are not competing in the decking market.

MS. TURNER: I understand your distinction of trying to distinguish it between the extreme of southern
yellow pine, but I guess what I'm looking for because the Commission does look at this for a clear dividing line and from one end of the spectrum to another, yes, there's always going to be a clear dividing line; but I'm asking what about white cedar?

I just had a house re-shingled with cedar and there was a choice between white or red cedar, so why would this be different? Why would western red cedar be different from white cedar, per say, or on the other thing redwood, which is another type of end product?

MR. GETLAN: Redwood is an example, like the others, where availability -- particularly, redwood availability is so limited and the quantities we're talking about with some of these other cedars are so limited that we don't think it should drive the analysis.

That said, again, it goes to this issue of is there a shared physical characteristic or end use between one or more species. You know perhaps, both sides are arguing it. You're going to find that in the record, but I think I was focusing on in showing you with the advertisements and the marketing of western red cedar and you listened to what purchasers have to say and all the participants in the market this really operates as a distinct industry.

I mean western red cedar, yes, it may as a --
the timber may share certain botanical characteristics, as Mr. Feldman has referred to, but this is an industry unto itself. It's marketed as such and customers, purchasers, distributors perceive it as so and so again.

MS. TURNER: I guess, again, I don't understand where you're putting that distinction between white cedar, say, and western red.

MR. GETLAN: Well, at the moment, we are putting the lines around western red cedar.

MS. TURNER: But I'm trying to understand how that is different -- those two are not marketed as truly competing --

MR. GETLAN: You see here with the advertisements that we've just -- a couple for the staff conference and for your perusal, this is not all cedar. This is western red cedar. This is from the Western Red Cedar Lumber Association. They are not marketing all cedars, so the industry -- and I view the industry as manufacturers and distributors and the end users -- they all perceive western red cedar as unique and they drive the value from it, extract the value from it and that's why it's its own industry.

MS. TURNER: If you can clarify more in terms of using the six factors that the Commission looks at --

MR. GETLAN: Of course.
MS. TURNER: -- for a domestic-like product because you're talking about a perception, which I'm not even sure I understand. The marketing is one aspect. The customer perception I'm not sure is entirely there as well, so I mean if you can explain that.

MR. GETLAN: Of course.

MS. TURNER: And not doing it relative to something at one of the spectrum, but doing it at something that is a much closer end of the spectrum.

Do you intend to also put forward a request to Commerce to try to exclude this from the scope?

MR. GETLAN: We haven't decided that yet.

MS. TURNER: Okay. Because it sounds like a bit more of a scope -- .

MR. GETLAN: Well, it's not mutually exclusive I would say.

MS. TURNER: If the Commission -- I mean in terms of the handouts that we have here it shows, I believe, 2 percent -- or maybe I have these backwards, but 2 percent of the domestic industry is western red cedar and 4 percent is the Canadian imports are western red cedar. So is there even the ability for the Commission to have a domestic industry data for western red cedar or would they have to use a product line analysis?

MR. GETLAN: We'll look to provide as much as we
can for our post-conference I think in the -- you know at
this point I don't think the Commission, through its
questionnaires, solicited western red cedar specific
information. The petition has alleged anything with respect
to western red cedar and there's nothing so far, other than
in questionnaire responses some participants talking about
--

MS. TURNER: Well, in part, because it's not
raise for now. We've completely closed that door in 2002,
so that's why I'm asking if there was something different
and that's why the Commission hasn't asked for something at
this point in time.

MR. GETLAN: Of course, we recognize that and we
will be putting as much detail as we can that's available in
our post-conference brief. But again, we think that the
facts are such, even on the record of the last case, but as
supplemented. You know that was 15 years ago. Things have
changed.

MS. TURNER: Elaborate actually on how that's
changed.

MR. GETLAN: Yes, absolutely.

MS. TURNER: Okay, thank you.

Mr. Feldman, in terms of the two like product
arguments that you're making, white pine being one, on that
there are other pines as well as other woods that are not
necessarily used for framing materials as well and so I understand that you did indicate that in your post-conference brief you would elaborate more using the six factors. I would ask you to do that in terms of not again the structural, but as for more of products that are actually used for -- I don't want to say their decorative purposes, but they're definitively a grade that you would find on your white pine.

MR. FELDMAN: We're not offended by decorative purposes.

MS. TURNER: But why that is, this white pine is distinctive or eastern white pine, in fact, is distinct from any of those other products that also would be used as decorative as opposed to, yes, there might be you know the southern yellow pine and the SPF that is used for purposes of -- for framing, but there's also other in the whole spectrum why this one is --

MR. FELDMAN: Well, with respect, I hear you sliding back into the continuum and that's not the subject of the petition. So just to give you one example, the average prices for the subject of the petition most recently that we found, SPF southern yellow pine are between $297 and $367 per thousand board foot and eastern white pine has been a fairly steady price, not fluctuating at $875. These are not comparable. They're not used in the same way. And
through all of the criteria that the Commission uses, we'll walk you through all of those criteria.

What's changed is that the Commission in other cases has begun to recognize more this distinction in like products, as I indicated in my remarks and we'll identify those specific determinations in our post-conference brief.

The point being that the law has also, therefore, changed. The Commission from 15 years ago has recognized these distinctions and the issue here is not, in our view, whether we are going to distinguish eastern white pine from Idaho white pine. Idaho white pine is not used any more to hold up the house than eastern white pine is, but if there's nobody here concerned about Idaho pine, then there's nobody here concerned about Idaho pine any more than there seems to be anybody here concerned about different cedars.

So someone has come forward saying western red cedar is different and we have come forward saying eastern white pine is different. What other cedar or pine manufacturers may have been interested in we don't know.

MS. TURNER: Wouldn't you, just to carry that argument further, if you actually made that argument to us as for all the different kinds of decorative pines and not just the one that you're representing, but all of those are something distinct from the more framing material is more in
line with what the Commission looks at when it looks for a clear dividing line between different types of products? The same with the cedars, if you had a broader thing of all the cedars you go through the factors and you find as for when you're making it a specific to something that you're representing isn't that more what you make to Commerce to exclude the product?

MR. FELDMAN: We're paid to represent our clients. Our clients are interested in these products, but in every one of the dimensions that you consider in the Commission, these products are distinct. Now, are they distinct from other pines or other cedars? I have no idea, candidly.

What I do know for sure is that they have nothing in common with the gravamen of the petition, which pointed you in the petition to four comparisons and talked this morning entirely about things that hold up houses and these things won't hold up houses.

MS. TURNER: The Commission takes the scope as it gets it from Commerce. We have nothing to do with what the scope is. That's why I'm asking if you do go -- planning to go to Commerce and look for an exclusion when you're dealing with a distinct product, but if you can make your -- make your case as well as in your post-conference brief for why this is something that would actually be
distinct from those other kinds of materials that might
actually be in that end of the spectrum that your products
are as well as the product line analysis could we actually
do something.

MR. FELDMAN: We'll be happy to do that,
although I'm struggling with this notion of a spectrum. The
fact that it's a conifer they bought and they made it a
softwood does not make it similar to other wood. All wood
is not all wood, but we'll do as best we can to meet the
question you're raising, although I am struggling to
understand it precisely.

MS. TURNER: Okay. I mean if there's something
I need to elaborate on, on it, we'd just like to go through
the six like product factors as per your one product.

MR. FELDMAN: That's exactly what we intend to
do.

MS. TURNER: And look at it distinct from other
pines or other cedars as opposed to at the complete other
end of the spectrum. So thank you for that in terms of -- I
guess in terms of the bed frame components we've also looked
at that, but if you also can make the argument on that as
distinct from other re-manufactured products because bed
frames isn't the only one. I believe actually in the past
you had flanges that you had looked at and there's many
others. I'm just saying why that one would be distinct to.
MR. FELDMAN: Well, we have the question as to why the radius ends of the components are considered a different like product, but the square ends are not when you need them both to make a bed frame. Somehow the Commission concluded that. We don't understand how. It's one piece. The components make up the bed frame. You need both things. You need the square end and you need the radius end and you can't glue them together to make a stud, so already part of it has been found to be different.

MS. TURNER: Well, is that the Commission doing that or is Commerce excluding it from the scope?

MR. FELDMAN: The Commerce Department excluded it from the scope.

MS. TURNER: Which again, we have to take what we get. I mean if you're proposing that the Commission expand the scope to include something that Commerce did not, then that's something the Commission can look at. We can make the like product broader than the scope, but we can't exclude something from the scope. I mean that's statute.

I'll move on to some other questions. My question that I had asked this morning, and this is more on the substitutability issue, dealing with -- Mr. Dougan, on Slide 12, I had asked actually the question and I'd quoted from the Commission's opinion in 2002, the comment that the Commission noted that the parties disagreed regarding the
level of substitutability between subject imports and the
domestic-like product.

The Commission, however, found that after
carefully considering in the record, we found on balance
that subject imports of softwood lumber from Canada are at
least moderately substitutable for domestically produced
softwood lumber. As we've recognized in prior
investigations, Canadian softwood lumber and the
domestic-like product, generally, are interchangeable,
notwithstanding differences in species and preferences. In
particular, the evidence in these investigations
demonstrates that subject imports and domestic species are
used in the same applications.

And you've actually got a quote on page 12,
which is actually from the public report. Instead of II-7,
it's II-5, that indicates that species was cited most
frequently as purchasers primary factor in buying decisions
while quality was cited most frequently among the top three
factors. But on page 2-8 of the public version of the
Commission's report, it also noted that purchasers were
asked if they have ever switched between different species
of softwood lumber for use in the same applications.

And of the 57 responses, 32 responded yes and 25
responded no. So the Commission then actually on that it
indicated as well that the substitutions were -- one of the
primary areas of substitution were Douglas fir, Hem fir and SPF were cited most frequently.

Now I understand the arguments that you've made about southern yellow pine, but isn't actually about 40 percent of the domestic industry, Douglas fir, Hem fir in addition to some SPF and that that competes it sounds like directly with the 87 percent I believe your slide has of SPF?

MR. DOUGAN: Hi. Jim Dougan.

It is true that about 40 percent of U.S. production -- I believe that's the number. It's about 40 percent of U.S. production is Hem fir, Doug fir and SPF as compared to the 87 percent of SPF in Canada.

I think what's the real relevant or rather an interesting way to look at this or actually the way to look at this is we, I don't think, have ever claimed that there's absolutely no competition whatsoever between these things, but that there's no overlap at all. The question is how much is there actually in the marketplace. So these responses that are quoted at Roman II-8 from the lumber four staff report said did people actually ever switch and you had a certain number that said yes and a certain number that said no.

But I think the really actually important empirical evidence on this comes from Dr. Kirgiz's
presentation, where there have been studies -- and if you
ask what's different now, all the studies that Dr. Kirgiz
just cited, and he can discuss them in more detail, have all
been done with very large datasets, not 50 purchasers
answering questionnaires, but very large datasets about the
likelihood or rather the degree of substitutability between
the different species and how that's influenced on the basis
of price.

So the point is, and again, Kivanc, I'll turn it
to you in a second. The point isn't whether there is a
theoretical interchangeability in some applications. Could
someone perhaps use this species for this application and
that's a difficult thing to talk about. What the data show,
the empirical evidence from a large number of studies done
over the past 15 years show that they do that only to a
very, very small degree and far, far less than the
elasticity of substitution that was presented in Lumber 4.
And by the way, the Lumber 4 substitution, at least
moderately substitutable, is a change from even Lumber 3
where there was a higher degree of substitutability found.
So there's an evolution, I think, in the Commission's
understanding of substitutability and I think there's more
empirical evidence available to the Commission now.

Dr. Kirgiz, maybe this is the best time for you
to talk about this.
MS. TURNER: Let me you, actually though, ask you a little bit more first about that because basically I think what we're saying here is 40 percent of the U.S. industry directly is substitutable with 90 percent, the 87 and there's actually 3 percent of Douglas fir or Hem fir, one of those. So 40 percent directly is substitutable because it's the same species. I mean am I not understanding something here?

MR. DOUGAN: But I think what the evidence shows is there is even limited substitutability even behind or rather between what you're characterizing as the same. But even between Doug fir and SPF, which are what you would put in the bucket at the same, the evidence shows that there's very low substitutability in practice, in commercial situations of people that there is a change in the quantity of the relative quantity purchased based on changes and relative price. That's evident.

MS. TURNER: So Douglas fir from the U.S. and Douglas fir from Canada is not substitutable?

MR. DOUGAN: I didn't say Douglas fir.

MS. TURNER: Those were the three products.

MR. DOUGAN: But now you're talking about 24 percent versus 3 percent. You said 40 and 40. I mean what are we -- are we saying that --

MS. TURNER: Well, what the Commission had found
here that the purchasers indicated that the substitutions
between Douglas fir, Hem fir, and SPF were cited most
frequently when they indicated that they do switch from 32
out of the 57 said that they actually did switch. This
wasn't that theoretically. This is actually that they did
switch. So I'm asking here -- I mean we had at that point
and how much has -- you know I'm looking at the data that
you've got here showing me what the percentages are for each
of these.

I'm not even sure we have the same data for
that, but I'm using what your slide said to show that there
is this same product. And so the southern yellow pine
aside, I mean that's a whole different issue here. I'm
looking at what is the same three products that are actually
produced in the United States and produced in Canada. And
you know there seems to be quite an overlap here.

MR. DOUGAN: Well, I mean there's a lot in that
sentence and to really read what's underneath it I think
would take, first of all, probably access of the
confidential record of Lumber 4 and a little bit of greater
understanding because it's saying -- you're talking about 32
responses and substitution between different species, the
Doug fir, Hem fir cited most frequently, but I mean how many
was each cited? How many times was each cited? What was
the substitution between each that was cited? That
information is not contained in the sentence. And so what
I'm saying is to develop an understanding of the actual
dynamics in the marketplace there needs to be a much more
granular comparison to understand it.

I mean if you're asking me to accept the
proposition that all of this stuff is the same I'm not going
to accept that proposition because the evidence says
otherwise.

MS. TURNER: Okay. But I'm trying to clarify.
So you're saying -- I mean I understand that the southern
yellow pine versus the SPF or whatever it's more a matter of
when you're actually talking about the same species or three
different species which are actually all fir products.
They're basically different parts of a fir product, but
okay, if you can clarify a little bit more because that's
what the Commission did find and why it would be different
now from that.

I then actually would ask Mr. Rutenberg and Mr.
Millman because -- and maybe I've not got this right, but I
seem to understand from your comments that there was a
preference and that there were preference differences for
what you would use, but it was not that these were not
interchangeable and it's not even theoretical --

MR. MILLMAN: Interchangeable and it depends in
whose mind. Certain builders like certain things and to
them they are not interchangeable. And this morning when
the person said all wood is wood I disagree vehemently with
and he said everything is based on price I disagree
vehemently with. We offer different products at different
price. They do not always go with the lower price.

Just because spruce was cheaper than fir a lot
of people use the fir because they like the characteristics
of it. So I think wood is not interchangeable. I think
that's the main axiom we ought to get to that their
discussion this morning all wood is wood and all people buy
on price. I don't believe that. Our company sells a lot to
Home Depot and it's not always price.

MS. TURNER: But if I went into Home Depot right
now I would not find actually a choice. I would get a 2x4
that I would get in there is only going to be SPF, unless
it's pressure treated and then it would be --

MR. MILLMAN: Well, not necessarily.

MS. TURNER: Well, my Home Depot because I was
in there last week.

MR. MILLMAN: We find in most Home Depot markets
they buy a lot to do with -- there's two components in
lumber. You've got your FOB mill price and your delivered
price. In certain markets Home Depot will use fir because
it might be in the West Coast. That's where it's produced.

Down South they might have good SPF rates there.
So to say that they're buying it all on price is --

MS. TURNER: You're saying it's regional.

MR. MILLMAN: It's very much so. And even in our Midwest market, certain customers prefer fir because they always used it. They don't really care what an SPF stud costs.

MS. TURNER: I guess what the Commission has to look at here is, and what they looked at in 2002, was that there were definitely, and they acknowledged, there were different regional preference.

MR. MILLMAN: Yes.

MS. TURNER: And they're different regional because of supply and there were preferences, but when it came down to whether for a framing -- a wall framing whether you use SPF or southern yellow pine both were interchangeable and could be used and in some parts of the U.S. you would use southern yellow pine because it's prevalent.

MR. MILLMAN: You could say it's interchangeable that a person could actually physically do it, but the contractor or the architect makes that decision. In their mind it is not interchangeable. Certain products they like spruce because of the tightness of the wood, the quality, and to them you could say could you build that wall with fir, yeah, but the customer is going to make the decision of
what he uses.

    We offer a variety of products. We have them all. We have fir, hemlocks, spruce, yellow pine, all of them. The customer makes the decision. So when you say it's interchangeable, it's interchangeable in that if you give a guy a hammer he could use any three, but the guy making the purchase decision he doesn't think it's interchangeable. He wants what he wants. And in a certain market if the guy wants spruce, he wants spruce. And in a certain market if he wants Douglas fir, he wants Douglas fir.

    This morning they talked like everything was price.

    MS. TURNER: I mean we understand. I mean the Commission thoroughly looked through this as well and we're not saying --

    MR. MILLMAN: My main emphasis is that the customer is the deciding factor and he does have choices. Nobody's putting a gun to his head to buy what he wants and some of them do buy on price. You do a big apartment project, you get a bid, it's going to be price. You build a custom house it's very distinct what that customer wants. So you have all different customers in all different markets.

    MS. TURNER: But a header in Georgia might be
different species of lumber for the header in Georgia than
in Montana or Oregon, say.

MR. MILLMAN: No. You have different choices. We buy headers from Georgia, we buy headers from California, we buy headers from Canada and then offer them to the people which one do you want. We offer a southern pine header. We offer an engineered header. We have Douglas fir. It just depends what they want.

It's funny. We always kid because we carry so many different SKUs because of all these different preferences. In Russia, if you want a header, you just give the guy a 2x4 and use it. I mean it's just amazing how many -- like I mentioned before, Oklahoma City, they don't like spruce there. They like Douglas fir and they're willing to pay more for it.

MS. TURNER: I mean you did indicate your three different --

MR. MILLMAN: And it all depends on customer preference and I don't think you can say it's all about price.

MS. TURNER: But it is basically that they are interchangeable at size, like you're saying --

MR. MILLMAN: It's interchangeable in the fact that could you build a wall with any of them, yes. Would you be happy with the wall?
MS. TURNER: But somebody would be happy with it in Oregon would be happy with a header made of one species, whereas as a builder in Georgia or Florida might be happy with a header from a completely --

MR. MILLMAN: I'll just give you an example. We're doing an apartment project in Colorado, and the guy specifically put on there we do not want any southern pine, because they've had problem with crooks. He builds the apartment. He builds the apartment. He has to come in, redo the walls. So there are certain places where people say we do not want this, we do want that.

So I think the biggest difference in our presentation this afternoon and the morning presentation is they came up with everything all wood's the same, it's all price. I disagree with that 100 percent, and I see that in our markets. If it did, if it was, we'd just always buy the cheapest thing and wouldn't buy anything else. We have all difference price ranges.

And you know what's funny? A lot of times the higher price sells for the lower price, just contrary to what you would believe. People don't want, you know. We sell to Home Depot a lot. They want the high quality and if it's SPF they'll buy it, they'll pay the price because the returns in business cost a lot. You've got huge labor figures. So a person wants a piece of wood that's going to
work for him, so he doesn't have callbacks. I've seen that, right.

MR. RUTENBERG: I really agree that I do not agree with people buy just on price. So what's -- I'm going to say something about the modeling and other things, but I'll start out by saying I have a lot of admiration for Home Depot as a company. But a lot of their buyers are not the builders. The builders are not, at least in my part, the builders are not buying their lumber packages from Home Depot.

They're selling to people who are doing additions and the other stuff. Figures are from ten years ago, but I hope it's not correct anymore. But 80 percent of remodeling in this country is done without a building permit. They're not going through codes, not going through other stuff.

You're building a bookcase, you know. You think they know the technical stuff up between SPF, hem fir. I mean they don't, and the reason that it was said this morning that Home Depot wants number one and number two, and the number three and four goes somewhere else. You're exactly right, because I was with Home Depot executives and they were saying, you know, if somebody comes and says this is not a pretty stud, they'll take it back and they'll ship it back to the supplier and say I want a pretty stud in its
place. I mean it's done in large numbers, but that's essentially it.

It's different, and yes there is some substitutability between certain regions and certain things. Not between SPF and southern yellow pine, hardly. You know, that one, I don't see the substitutability. That's very species. You may see some hem fir, you know, headers in the price, or certain yellow pine that's expensive to be shipped to. I mean you'll see some things on fringes between areas.

But in the eastern U.S., in my shop, we don't see anything but all of trusses are southern yellow pine, and nobody's doing studs out of southern yellow pine. Whether they do headers out of one or the other, I've seen some variation. Most of the headers are southern yellow pine. It's not the biggie.

You have these separations, and the professionals who are doing most of the buying for the homebuilding industry know the difference in the species, and I'll make a guess. You know, in some places southern yellow pine allows me to do larger spans, more creative trusses. If I was going to do it out of another species like SPF or fir or Douglas, I might have to use bigger members, and I'd have to use more vertical webs or more plates and they have other expenses.

You're not dealing with anything that's simple,
but there are -- you do come back to some common absolute cores. We're buying -- the homebuilders are buying species and on performance. A home is a system. It's everything put together. It's not individual pieces. If I took a chance on another species of wood and it didn't work out, I've got a really humongous problem.

It isn't the cost of replacing the stud. I'm going into your house, and I'm taking the drywall off, I'm changing the studs out. You've done some remodeling, I can tell by -- you know, just think of the complications. Those are not risks -- okay. Those are not risks I'm going to take.

MS. TURNER: Well, you've got a leak and you have to get back.

MR. RUTENBERG: Thank you very much. I rest my case. But that's why we go back to what we're comfortable with and what performs.

MS. TURNER: Okay, no. Thank you very much. That's been very helpful. Let me get back to some of the other questions I had here. Mr. Parnes, you had in your testimony you cited to the letters in the 2006 letters that were done by the domestic industry. Aren't those standard types of letters that were done, and they were done in 2006 I understand at the time that the agreement was put in place, which the domestic industry typically is required to
do, to have the agreement signed?

MR. PARNES: Yes absolutely. The domestic industry has done letters like that before, and in this case they signed letters that said we represent that we are not injured under the terms of the SLA. They may be standard, but that's what they said.

MS. TURNER: But wasn't that at the time of 2006, when the agreement was actually being signed?

MR. PARNES: No. In fact the letters, and I may get the exact language wrong and I apologize. On our slide, it's probably fairly small. But no. It recognizes that market conditions might change, and that during the term of the SLA, which obviously continues into the future and then was renewed in 2013, what they represented is that even with changing market conditions that may happen under the term of the SLA, we're not injured. We won't be injured.

So it doesn't -- it didn't apply just to that moment in 2006 when they signed.

MS. TURNER: Well, even saying that we're supposed to carry this forward through the whole agreement, when as I said these are pretty standard things that the industry's required to do by Commerce, my understanding is when they actually will agree to the terms of an agreement. But even saying that, the agreement expired over a year ago.
So how then does this carry forward for them to say that they're not injured from October of 2015 to now?

MR. PARNES: We're not suggesting -- well first of all, we're not suggesting that it has any binding force as far as whether they were injured after October 2015, okay. Part of POI obviously is before October 2015. So it is relevant to that and directly relevant. But even after October 2015, it may be informative, because what it does is it indicates the conditions under which they've acknowledged they're not injured, and that's the other half of the point.

MS. TURNER: Okay. No, I just wanted to clarify that those are -- the timing on that as well as basically they're fairly standard letters that they do. But if you want to elaborate on that in your post-conference brief, please go ahead and do so.

MR. PARNES: Sure, we'd be happy to do that.

MS. TURNER: I did have actually one other question about actually something that -- there was a characterization I believe by either Mr. Nicely or Mr. Dougan about the Commission finding that there was no injury. In fact, I believe the characterization was finding no volume effects in the 2002 investigation. The Commission
did actually in its decision, did indicate that the volume was significant, and then when it did its Section 129.

So I just wanted to -- is it the volume they're saying that the Commission found, or was -- because you are indicating that this time period, and maybe again I'm misstating or misheard, that you're stating that now the injury is less what it even was, or the injury that the Commission didn't find in 2002?

MR. NICELY: Jim and I may have both talked about this, but I think our primary point was that the Commission did not find current injury by reason of imports. At that time, at that time, Canadian market share was higher than it is today. So the point is that if we're looking at market share, and then ^^^^ and you found no current injury at that time and if it were solely looking at market share, but of course that's not the only thing we ought to be looking at.

But if we're solely looking at market share, then consider that in the context of what happened in 2002, when you found no current injury by reason of imports.

MS. TURNER: Well but the Commission did indicate in its 2002 that it did find that the volume in absolute terms relative to consumption was significant. So it made a volume effect finding in its -- it was because it couldn't determine whether the price effects were due to the
domestic industry or the oversupply by the domestic industry
or by the Canadian imports.

So I'm just saying it wasn't the volume that the
Commission was making its no present material injury
finding on.

MR. NICELY: Well, in any case, obviously the
combination of the two play into this, and obviously at that
time, as I mentioned in my testimony, prices were at a very
different place. They were going down at that time whereas
now they've been going up since the expiration of the SLA.
So when you put the two together, our point is in light of
the facts, both with respect to volume and with respect to
price, if you determine then that there was no current
injury by reason of imports, there's no way you can find
that there's current injury by reason of imports today.

MR. DOUGAN: Well, and just to add to what Mr. Nicely said, the financial performance of the domestic
industry is in quite a different place now. I mean
literally ten times as good as it was then. So even leaving
this -- I mean again, it's a constellation of factors. It's
not just market share. It's not just this. So the -- in
the course of discussing market share as one of the factors,
that was the reference point.

If you found no current material injury with a
higher market share and way worse financial performance, how
are you going to then by that standard find injury in this current proceeding.

MS. TURNER: How should the Commission take into account -- I mean at that point in time the Commission was taking into account the fact that the agreement, the agreement that had been in place at that point ended the -- two days before the petition was filed. So there was basically a market that was under an agreement for the whole time.

This time, there is a full year. So the Commission be focusing more just on that year, that in fact that there hasn't been an agreement in place here? As I said, back at the time period of the 2002 investigation, I mean the Commission did not have any time period which it was looking at. Here, you do have one year, a little over a year for the Commission to be looking at.

MR. NICELY: The answer is we think it's critical that you have that year in this case, and yes, we think you ought to be looking at the post-SLA period. And yes, we think it improves our case dramatically as compared to last time, because you would have thought that in a period of -- without an SLA, with a free trade in a free trade context, truly free trade, not even an SLA in place with the possibility of export measures going into effect, you would have thought, given the rhetoric that you hear
from the domestic industry, that things would have gotten a lot worse with additional imports coming into the market, which in fact happened.

But in fact it didn't get worse. Things got better for them, dramatically better for them, as we showed you that Weyerhaeuser and Potlatch have made clear, and as your questionnaire data is going to make clear as well. So that additional year actually gives you the opportunity to see what happens during a free trade period of time, which you didn't have the benefit of in the last case.

MS. TURNER: Okay. There are Canadian -- there are U.S. companies who own Canadian importers, as well as some Canadian companies or some Canadian companies now down in the United States who are domestic producers. Can you in post-conference brief, whichever parties want to, but please elaborate on whether you -- how the Commission should consider the related party issue, whether the Commission and, you know.

I asked Petitioners this morning to address this, even if they're not going to, you know, propose that anybody be, you know, not be excluded as a related party. The Commission still has to address this issue, so we'd like to hear your reasoning as to why related parties shouldn't be excluded or should be excluded in your post-conference briefs?
MR. NICELY: Understood. We'd be happy to address that, or some of the parties will be happy to address that in the post-conference.

MS. TURNER: Okay, thank you, and we -- Mr. Bird indicated in his discussion went through the Canadian stats, and why the Canadian stats were a better data source for the Commission to use and why, and that was -- thank you for that. Are there other data issues or there data that you think are better sources then, and the Commission typically in this case has used a lot of, you know, uses its questionnaire responses. But it also has to use random lengths and, you know, there's a whole assortment of different publications that the Commission uses.

If you in the post-conference brief can actually discuss which of these that you think are -- the Commission should be using, as well as why, you know, or why not the Commission should be. I had also asked the question about demand, and to look at there had been some other discussions, some comments about looking at, you know, it's not just new housing starts.

There's a lot of lumber that is used for remodeling and repairs. So for demand during this time period, as well as demand into the imminent future, if you can actually also provide us with your thoughts on -- and provide, if you do have studies or provide us copies of that
I think the last question that I have is actually -- well, it's for all, but directed then Mr. Feldman as well on the subsidies issue, and to actually discuss how the Commission, the Commission by the statute, if it is a threat case, the Commission is required to look at the nature of the subsidies. But the Commission is to look at what Commerce has presented to it, and thus what should the Commission do and how should the Commission look at what is presented to it by Commerce?

And my then further question for Mr. Feldman is your -- I didn't take it that you were trying to indicate that we should be looking behind Commerce on the subsidies issue, when you indicated that we should be looking at separate provinces as if they were separate countries?

MR. FELDMAN: We are not saying that the Commission should look behind anything that the Commerce Department does and never suggested that.

MS. TURNER: Well I'm --

MR. FELDMAN: The Commerce Department will provide you, will have in its final determination, regardless of how it conducts its investigation and we don't yet know the answer to that, whether it's going to conduct an aggregate investigation or it's going to investigate individual companies. We don't know. But regardless, the
central dispute you heard this morning is about stumpage,
and you heard this morning also that stumpage is an issue
for each province, and each province has its own system for
selling cutting rights.

Now the rest of what you heard we probably
disagree with. But that much we agree. It's a provincial
case. If individual companies are examined, the stumpage
analysis will have to be with respect to the province in
which they operate. If it's an aggregate case, the
department will have to examine stumpage in each province,
because each system is different.

Now in both British Columbia and Quebec, there
are now auction systems, highly competitive, significantly
more competitive often than in the U.S. forests. So what
you heard this morning about how there's no competition and
prices are just fixed and so on, this comes from some other
place in time that has no connection to the reality today.

So each province will have its own system, and
the Commerce Department will be required to calculate rates
for each one. It may come out de minimis. It may come out
zero. It may calculate a rate. In each instance, you will
have that separate information. The Commerce Department
will provide you with that separate information. What we're
saying is that's part of the nature of the subsidy, which in
a threat determination you'd be obliged to examine.
MS. TURNER: But how would -- I guess -- so to examine, how would the Commission examinate (sic)? I mean --

MR. FELDMAN: So the -- I'll posit for the moment that in Quebec, there is now an auction system, highly competitive, market-driven, modeled in some degree after auction systems in the United States, but having perfected them. There's a good chance that if the examination is done fairly, the Department of Commerce will deliver as a result that it finds no subsidy in Quebec, and you will have that information.

The question becomes do you consider that information? We think you're required to consider that information because the only legal basis upon which Commerce made that finding was by implicitly or explicitly regarding each province as a country, as far as the statute is concerned. That means that you would examine the results of the investigation in each country.

MS. TURNER: But isn't the Commission by the statute what we're told to look at is we've got two different actually provisions here, but we're told to look at -- for subsidies. We're told to look at, presented by the administering federal. "If the -- is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy, particularly as
to whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement, and whether imports of the subject merchandise are likely to increase."

So if they're not Article 3 or 6.1 subsidies,
then what is it the Commission is looking at?

MR. FELDMAN: Are you suggesting that the Commission, unless it's an export subsidy, doesn't consider the nature of the subsidy at all?

MS. TURNER: I'm asking you how the Commission should be ^^^ I mean I'm really asking for how you -- what you, and this is something maybe that's a little bit more for a post-conference brief. But if you can elaborate on how the Commission or what the Commission, you know, should be looking at when it's looking at the nature of the subsidy here, based on what the statute tells us, as well as the fact that we don't look behind Commerce. Oh sorry. I moved. I moved this way, sorry.

I'd actually, if post-conference brief would be fine to elaborate on that. But that's basically -- I'm just trying to get around what it is actually the Commission, and the Commission has -- this question has come before the Commission before. I mean I'm not sure that --

MR. PARNES: So if I may, we'll address this further in our post-conference brief. But I do think it is
important whether it's an export subsidy, and I think what Mr. Yocis has said earlier is right, is that technically we don't have an export subsidy here. So the question under the statute is whether, given the nature of the subsidy, imports of the subject merchandise are likely to increase.

In other words, are we subsidizing exports such that it's likely to increase? With respect to stumpage, there's no evidence, either empirical or economic, that even if there were to be found a stumpage subsidy, that that would cause imports into the United States to increase.

And you know, we agree completely with Mr. Yocis, is that there really isn't an export subsidy here that the Commission can consider.

Ultimately, I think as he described it, when he talks about the nature of the subsidy, it's really just about the perception of the U.S. industry and why they are upset about certain things. That really, their being upset about certain things that they think are going on north of border is not directly relevant to the Commission's determination.

MS. TURNER: And of course this only applies if the Commission makes a threat determination as well. So thank you, and I will turn this over to Mr. Benedetto.

MR. BENEDETTO: Thank you. Thank you all very much for coming here today, and as I said to the other
panel, if any of my questions touch on anything business proprietary, please feel free to just tell me and answer in the post-conference brief. I'll try to be quick. So I think if I remember correctly, I heard this morning that overall, softwood lumber prices are lower now than maybe even back in 1977 I think I heard, and that's not necessarily inconsistent with what you all have been saying, that prices are rising recently.

But is that true that prices now are a low lower than in the past, and if so, why? If you can tell me, give me some background as to why prices are lower now than in the past?

MR. NICELY: Can we talk about what period in the past you're thinking of?

MR. BENEDETTO: Well, I heard 1977 this morning, which I know is a long time ago. But are prices not lower than in say the recent past?

MR. NICELY: They've fluctuated a lot. They're -- on an average basis, today they are -- they are higher than they were at the time you looked at this in Lumber 4 importantly. And so that's a critical factor. Obviously, they were low during the period, the housing crisis, the recession. But they've fluctuated dramatically over the last 20-30 years, yes.

MR. BENEDETTO: Do you have any -- and you can
do this in the post-conference brief, but why have they
fluctuated so much? What's been driving -- I mean besides
obviously the housing market collapse would have been part
of it. But is that the only thing, or are there other
things going on long-term that would make prices go down or
--

MR. DOUGAN: Certainly part of the fluctuation I
think ends up having to do with, and I alluded to this
earlier, about expectations for demand meeting, being met in
reality, and if actual housing starts and building is
projected for next quarter to be this, so maybe you get a
little bit more inventory. And then they don't build as
many houses, and so that may have an effect on prices.

But then maybe you underestimate for the next
quarter ahead, and then you're short and now you've got to
buy more and that drives prices up. I think as everyone
agrees, I mean we're not even talking about quarter to
quarter here. We're sometimes talking about day to day and
minute to minute. This is considerably more volatile
pricing than certainly I've seen in any other product that's
been before the Commission.

MR. BENEDETTO: So you're saying just sort of
the nature of the market is that it's going to be volatile?

MR. DOUGAN: That's correct. All parties kind
of agree about that, by the way.
MR. BENEDETTO: Another thing I think I heard this morning was that SPF is usually less expensive than SYP, I believe I heard. I'm hearing you all say they don't compete with each other. Would you agree that SPF is usually less expensive than SYP?

MR. MILLMAN: Yes. But once again, it's different characteristics. Different characteristics of the wood for where it can be used. SPF, like the gentleman said before, you could build roof trusses out of it. You would just have to use a lot more because they're not as strong.

So once again, when they said oh, wood is wood, it's not true. But each species have different characteristics. SPF is good for light framing. Southern Pine is good for strength. And people will buy it. And it depends. Right now, the Southeast has been, if you look at housing starts, the Southeast has been the bellwether. It's where the action's been. Where is southern pine produced? Down South. So people are using a lot more southern pine and that pushes the price up.

MR. BENEDETTO: Does anyone else have anything?

(No response.)

MR. BENEDETTO: Another thing again I think I heard this morning is that if the softwood lumber meets local building codes in terms of the requirements, the physical requirements, then price, I think they were saying,
is going to be the main factor.

So if I understand what some of the testimony here today has been correctly, then you're saying that home builders and architects, when they choose between SYP and SPF, or between different types of--between different species, they're not doing so because a building code prohibits them from choosing one or the other, but just because they have a preference for--the architects and the home builders have a preference for one or the other, right?

MR. MILLMAN: It could be a little bit of both. In light framing, the stress rating doesn't appear that much. But on the truss part, they would have to specify certain items. It depends what portion of the house that you're using.

MR. RUTENBERG: Sometimes you have to, what the building code says is you have to meet a certain standard, certain engineering, and it's up to the customer to determine how to get there as long as it will perform. But it's--that's probably enough. If you want more than that, then we'll get back to you in the post-conference brief.

MR. BENEDETTO: Then on slide nine of your testimony, where you say the title--it's the Potlatch slide that says "Canada's ability to supply lumber is constrained," and I don't know if it's you or Potlatch who
has two reasons, Mountain Pine Beetle and the reduction in allowable cut.

I remember you talking about Mountain Pine Beetle. I didn't catch what you said about reduction in allowable cut. What's that? What happened there?

MR. DOUGAN: Jim Dougan here. I think all of this slide is Potlatch, but we agree with this characterization. And so the allowable cut, or the provincial allowances as to how much timber can be cut, and as a result of the devastation of the Mountain Pine Beetle epidemic, there's been a reduction in what's allowed to be cut.

And so as a consequence, it's reduced timber supply. And specifically most severely in areas that have been most severely affected by the Pine Beetle. So that the AACs are administered not for the Province as a whole, but for areas within it.

And so the areas where the Pine Beetle epidemic destroyed the most trees, you have the greatest reductions in cut. And as I mentioned, that also happens to be --- it's in the BC interior, which is where a lot of the largest BC mills are. And even just over the past couple of years, three of the very large ones have shut down because they cannot get access to timber now.

MR. BENEDETTO: Then Dr. Kirgiz, the information you had on the elasticities from the academic paper looks
very interesting. If you can, the more of those papers you
can give us in the post-conference brief it would be
helpful. We don't always have access to every journal, so
that would be very helpful to get that.

DR. KIRGIZ: Absolutely. Absolutely.

MR. BENEDETTO: And one final question is, what
can you tell me about Canadian demand for softwood lumber?
I guess in terms of what's the size roughly compared to the
U.S. market? Is it --- I know it's probably smaller, but
how much smaller? And are the trends sort of the same?

I know over the last 10 years I've heard little
things about certain Canadian housing markets booming.
What's going on in the Canadian market?

MR. DOUGAN: This is Jim Dougan. I can talk about
it a little bit more in post-conference when I've got all
the data in front of me. But it is growing. Reese
estimates that the total softwood lumber consumption is
about one-fifth that of the USA. So if we're at, you know,
50 billion board feet, it's 10 billion board feet. And it
is growing, but at a slower rate.

So virtually all of the growth in consumption and
demand in North America right now is coming from the South,
although there is some growth in Canada, at a more modest
level.

MR. BENEDETTO: Thank you all very much. I
appreciate your testimony.

MS. HAINES: Ms. Berry, do you have any questions?

MS. BERRY: Just one to follow up on the Mountain Pine Beetle epidemic. I was just wondering what steps are generally necessary to mitigate an epidemic like this? And what the forecasts on slide 29, if that's based on past experience with these epidemics, and how long it generally takes for a supply to recover in the wake of one of these?

MR. DOUGAN: This is Jim Dougan. I don't know the answer to that, but we will ask someone knowledgeable about that. But my understanding of what I've at least read about the Mountain Pine Beetle in particular is it's been so severe that the recovery is not expected for decades, if at all. So this is not something that's going to bounce back in the next 5 to 10 years.

MR. PARNES: I would just say, when you talk about mitigation, this isn't something you can spray for. Basically the Mountain Pine Beetle destroys the forests, and then it takes 100 years for them to grow back.

MS. BERRY: Thank you.

MS. HAINES: Mr. Yost, do you have any questions?

MR. YOST: Thank you very much for your testimony this afternoon. I do appreciate it. I've been following with eager interest.

I just have one follow-up question to slide 27,
Mr. Dougan's presentation. This has to do with new investment, including expansions and restarts of mills. Is the South an anomaly because of the less expensive lumber--less expensive timber? Or if we look at other areas of the country, would we see that the expansion, restarts, new mills, are predominantly in the South?

MR. DOUGAN: Jim Dougan. That's an accurate characterization. There are mills being opened other places. There are, as I think I mentioned in my testimony, even in the Northwest some of the mills that have been claimed to being closed or curtailed are actually being replaced by new mills in the Northwest, larger ones.

But most of the investment activity has been in the South. And that is driven by a couple of factors. One is, the abundant timber supply and the lower timber costs. The other is the growth in the housing market, which has been strong in the South as well.

So the combination of those factors. But, yes, the South is kind of where the action is these days predominantly.

MR. YOST: Okay. Thank you very much. That concludes my questions.

MS. TURNER: I actually have one more question to John's comment, actually. In the 2002 on page 40, and this is something for the post-hearing briefs, but it is actually
something for Mr. Nicely, Mr. Parnes, and Mr. Bird actually
would be the ones who probably would be able to respond to
this.

In the 2002 Commission's final opinion it
indicated, "We also recognize that many Canadian Provinces
subject tenure holders, lumber producers, to requirements to
harvest at or near their annual allowable cut or be subject
to penalties, reductions in future annual allowable cuts."

And we cited to actually the Canadian Forest Act
for British Columbia, I believe, which had a 10 percent of
their annual allowable cut over five years and 50 percent in
the year anyway or face penalties.

If you could elaborate on, in a post-conference
brief, what actually--is it still a similar type of
requirements that Canadian lumber producers are required
when they actually are permitted to harvest land? Is there
actually--really, what we're looking at are their maximum
amounts that they are allowed to--the required, or minimum
amounts they're required to take or they face penalties.

MR. NICELY: Those types of laws in Canada have
largely gone away. That's a significant distinction between
now and then.

MS. TURNER: Well providing us as much information
on that, and repeals of things like this, that would be
extremely helpful, rather than us having to dig through and
try to find that. I would definitely appreciate that.

So thank you very much.

MS. HAINES: Okay, we would like to thank the panel very much for traveling all this way. It was extremely helpful. I have been told by the Secretary that for closing remarks Mr. Yocis has 13 minutes, and Mr. Nicely has 9 minutes. And we will give you about 5 minutes before you come up for closing statements.

(A brief recess is taken.)

CLOSING STATEMENT OF DAVID YO CIS

MR. YOCIS: Thanks. David Yocis on behalf of the Petitioner.

Just in closing, I hope I won't take all 13 minutes that you've generously allotted. It's been a long day. I just want to thank all of you for your attention and for your questions, for both panels actually. I think it's been helpful to clarify some issues.

Let me just say a couple of things. First of all, just to be clear, the subject of the Petition is softwood lumber, not what certain people may think is the subject of the Petition, based on certain topics that come up in conversation or in testimony more often than others.

The subject of the Petition is the scope product, which is softwood lumber.

Secondly, I want to talk a little bit about the
no-injury letters from the Softwood Lumber Agreement. The slide 41 that is the one that I have in front of me here from the Respondent's presentation, and it doesn't have the full letter. And I would like to take a moment to review the full letter when I get back to my office and perhaps have some more in the post-conference brief on it.

But I just want to highlight that the representation that is made by the U.S. producer is—may, taking into account all the relevant facts including possible changes in market conditions, and the consequences that the representations will have for the term of the SLA, and those consequences are that the Department of Commerce, and I believe that is what is described in paragraph four, although it's not here, that's just from my memory, that the Commerce Department says it will rely during the term of the SLA but not after.

During the term of the SLA, while it's in force, the Commerce Department would rely on this representation. Should some person on the domestic industry file a petition as a basis for rejecting that petition, consistent with U.S. law, because there would be this representation of no injury. But that this representation would end at the end of the Softwood Lumber Agreement and it would have no legal force after the end of the Softwood Lumber Agreement.

So it is not an attempt by anyone to usurp the
role of the Commission, which is the only body under the
statute that has the authority to decide whether there is
material injury or threat of material injury to a domestic
industry.

If the Canadian parties want to give that
authority to the coalition, I suppose it would take it. But
that's really not an option. This is really for the
Commission to decide. It's not for --- it's not for the
domestic industry or anybody else to decide. And the
representations in these letters were made for a very
specific purpose and were not to define injury for purposes
of this proceeding.

A lot of conversation with both panels today with
regard to substitutability and whether wood is wood. I
think it is clear that no one is contending that all wood is
the same. Different species are different. A 2x4 is not a
2x6. Two-and-better dimension lumber is dot economy grade.
Everyone recognizes that there are differences, and that
consumers have different preferences.

The question is whether all lumber is
substitutable enough for each other; whether U.S., and more
specifically whether U.S. domestically produced lumber is
substitutable enough for imports that through our price
effects throughout the U.S. market as a result of subject
imports.
And I believe if we focus on that question rather than all sorts of other subsidiary issues, we get to what is really the heart of the matter. And the evidence I believe, taken as a whole, shows that there are such price effects. And I'm sure if we are so fortunate as to go on to a final phase investigation, that there is a record that will be developed in detail.

No one says that prices will move in lockstep. I once saw a survey at Random Length that said Eastern SPF and Western SPF prices do not move in lockstep. And even though those are identical species, because there are always things that go on from one week to the next that cause small fluctuations in the market.

But over time, and over relatively short periods of time, prices do move together. There is a Random Length's Framing Lumber Composite Index that has U.S. species and Canadian species all mixed together, and those prices--there is a reason why all those prices are put together in one index. And people attribute meaning to the fact that that index moves up and down because the prices of the various species generally move together because at some level they are substitutable enough for each other that a price change in one species will result in a price change in another specie.

And that really is I think, if we focus there,
it's entirely consistent with that for there to be
individual consumers who say I never change because,
frankly, the prices between the different species don't
change enough on a regular basis for me to spend time
thinking about whether I should switch species, because
generally speaking the prices never get far enough out of
line for me to even think about that.

That is entirely consistent with what we have
been saying, which is that the prices are linked together
enough, and that the rice effects of subject imports are
felt throughout the U.S. market such that the question of
some individual consumers never thinking about switching
species just never arises to them. Perfectly consistent.

The question was asked during the last panel just
sort of, you know, what causes prices to go up and down?
And I think if you hold supply constant, economists talk
about supply and demand curves that cross each other. And
if supply is constant, as demand does up you would expect
prices to go up. And if supply goes--if demand goes down,
you would expect prices to go down.

What's interesting in this market is the cases
when that is reversed. And that is exactly what we see in
the Period of Investigation. We see a period where demand
is increasing but prices fluctuate but mostly trend
downward, which is suggesting that there's something going
on with supply in this market, that supply Is increasing
even faster than demand. And that is depressing prices for
all softwood lumber of all species across the board.

And the question is why is there that increased
supply in the market during the period of investigation?
And it is clear that it is primarily imports and not greater
U.S. production that is contributing to the excess supply in
the U.S. market.

This is true whether you use U.S. Census data, or
Statistics Canada data. The trends are the same. The
numbers are slightly different, but the trends are the same.
The imports are up. Imports are up much more than domestic
production. Prices are generally down. Even as they're
trying to go up because of greater demand. And that profits
are--the financial performance of the industry, taken in
isolation, is better than it was but is not where it needs
to be.

And, that production is down certainly relative
to demand, even if not in absolute terms, but definitely
down. Capacity utilization is much lower than it needs to
be. The number of jobs that are created is lower than it
should be because of the loss of production.

And so it is true that the market is getting
better driven by demand, and a few crumbs and scraps of that
better market are coming to the domestic industry. But the
domestic industry is not able to be where it ought to be at this phase of the business cycle because of the increase in subject imports that are weighing on prices and pushing them downward over the period.

There were a lot of comparisons to, well, if you found this in Lumber IV and some of those numbers are different than they were then, well then if you can't find injury then you don't find it now.

We're in a different phase in the business cycle. Number IV we were at the bottom of the business cycle when that decision was being made. We're at a different point today.

People say, well, when the SLA was in effect versus now. Well, since the SLA expired, demand has increased, if you believe the U.S. Census data and calculate U.S. apparent consumption on that, as I said this morning, U.S. demand has increased by more than 3 billion board feet over the last year. That ought to be good news for the domestic industry. It ought to be doing a lot better than it was.

But it's not because Canadian imports have accounted for 70 percent of that increased demand. And because it's not, because the U.S. industry is trying to grow and can't, that is present injury today at this phase of the business cycle.
It looks different than injury at the bottom of the business cycle, but it is injury. And it is injury not only in terms of what happens from quarter to quarter, which is important and is important to examine, but also in terms of what it means for the ongoing financial performance of the U.S. industry in an industry where the main input takes decades to produce.

`People have to, at every moment, take the long term into consideration. And in taking the long term into consideration, you're looking at what is the ability of the industry to make money in the good times so that it can invest and weather the bad times when they inevitably come, which they always do in an industry that is as cyclical with prices that are as volatile as you see in this industry.

And that is what is not happening now. That is what has not been happening, especially in this year that ought to have been a banner year for the U.S. domestic industry and has not been since the SLA expired.

And so for all of these reasons, we believe that the record supports a finding of material injury and we trust that as all of the evidence is put together and assembled before the Commission, that that is a decision that the Commission will reach.

And we want to thank you for your attention, and for all the hard work that has gone into this case so far,
and I know that will in the weeks and hopefully months to come.

MS. HAINES: Mr. Nicely.

CLOSING STATEMENT OF MATT NICELY

MR. NICELY: Matt Nicely for the Government of Canada and Joint Respondents.

It's never good to be the last person to go in these proceedings. Everybody is in a hurry to go home, or go back to the office, and you just spent the last couple of hours hearing our side. So I recognize that we're in a hurry, so I'll try to be even shorter than the nine minutes that I've been allotted.

But I do hope I can have everybody's attention for a few more minutes because the facts already collected here, in our view, in what is always a hastily conducted preliminary investigation--it's only been going now for three weeks--already the facts collected place in question whether there's a reasonable indication of whether the Reasonable Indication Standard is even met.

Let me first talk about what we heard this afternoon, or this morning. We heard a lot of anecdotes. We didn't hear a lot of facts this morning. This afternoon, on our side, I think you can see with the presentation we put before you that we put before you a lot of facts. And it is on those facts that the Commission will ultimately
make its decision.

With regard to facts, and with regard to substitutability, I encourage you to think about substitutability not in a vacuum but with regard to what's been happening in the market.

And what's been happening with regard--in the market in the last year, since the SLA expired, is what's most critical for you to consider. What happened with volume and price during a period of unfettered free trade?

The Coalition wants you to look at the beginning of the POI to the end of the POI. Because in doing so you're looking at really high prices, aberrationally high prices, and aberrationally high 20-plus percent operating margins, compared with now.

In doing so, though, they are asking you to ignore in effect double-digit operating margins that they're getting today. But I encourage you to consider the fact that this industry rarely has seen margins like they saw in 2013.

The critical point is to consider what's been happening during this period of free trade since the SLA expired. And during that period of time, you had the highest increase in imports from Canada, and yet the industry's performance improved--notwithstanding what anybody says about substitutability.
There does appear to be a correlation, but the correlation that appears to exist is a correlation between increased subject-imports and the industry's success, not its demise.

ITC case law supports your emphasis on this most recent period, and there isn't really any reason to look at anything else. To the extent that you look at the entire POI, though, I encourage you to consider again the facts.

The Canadian import share remained well below 30 percent throughout the period before the SLA expired. It's hard to understand how those imports could be the cause of any injury back in 2014 or 2015 if they're not causing injury now when their volume is even greater and their share is even greater.

Furthermore, the industry claimed to not be injured by imports when the SLA was in effect, and it simply doesn't make sense to find injury for a period that is now over a year old and where the market was subject to a managed trade system the Coalition itself chose to extend through most of the POI.

Meanwhile, again this industry is not in a weakened or vulnerable state that would justify a threat determination. As I said earlier, Weyerhaeuser's CEO said earlier this week the future couldn't be brighter. That doesn't sound like something that somebody who wants import
relief would say.

U.S. demand is on the rise as the country starts to build houses again. U.S. producers can't meet total demand. We have to have Canadian product in the market. Customers prefer Canadian SPF. Certain customers prefer Canadian SPF for certain uses like new construction wall framing.

Yet growth in the Canadian lumber industry is constrained thanks to the Mountain Pine Beetle and the devastating --- that is devastating timber supply and closing mills left and right in the BC interior in particular, where most of Canada's production takes place.

It isn't just us that's saying this. It's Potlatch and Weyerhaeuser again, and they're giddy about it, apparently. Meanwhile, the U.S. industry is in no way, shape, or form shutting down. Far from it. Public sources say that the Petition's grim list of closures and curtailments are far less than what they proclaim in the Petition. And those that did occur, were not all related to subject imports.

Meanwhile, the U.S. South is thriving with plentiful low-cost timber, as Mr. Sullivan told you this morning.

So as for this stick-for-stick concept, it just simply has no merit. They would like you to believe that
this is a settled point, but actually the opposite is true. We have talked about it a little bit, but our position is there's a significant difference between what this Commission decided in Lumber III versus what it decided in Lumber IV, and things have changed since then, as Dr. Kirgiz has talked about earlier.

A dozen economic studies empirically demonstrate that not all softwood lumber is substitutable. If all wood was substitutable, if it was all fungible, wood for wood, as Mr. Miller said, then the Petitioner and staff presumably could have devised questionnaires that generated some pricing comparisons.

They didn't. Even when the Petitioner hand-picked the pricing products, the regions, the day of the month for which the data would be collected, and said that these choices would, quote/unquote "generate matches of U.S. and Canadian products being sold simultaneously in the same markets," these products are species specific. Still, the number of matches are ridiculously low, as low as to be completely meaningless.

That says a lot about substitutability, or lack thereof. We heard witnesses today talk about head-to-head competition species to species, but if that's the case why are there no comparisons? And why did they chose Chicago, Atlanta, Phoenix, and Denver? It doesn't make any sense,
given what we heard the witnesses say today.

We also heard from some witnesses that species
doesn't matter at all. Well if that's the case, then why
are we looking at pricing products that are species
specific?

I suggest to you that it may well mean that
they're a little bit nervous about what that data might
show. It's not going to show you the kind of traditional
overwhelming underselling that you get in some cases.

Anyway, you had the same situation in Lumber IV.
You had a lack of matches. You were forced to address price
effects from increased Canadian supply. But this time when
you look at the publicly available data, the prices
increased when subject imports also increased.

Let me say that again. Prices increased when
subject imports increased the most during the POI. There
are no negative price effects from subject imports in this
case.

Petitioner is panicked without the SLA. And
we've had an entire year without it, and look what's
happened? Demand has grown. Prices are rising. U.S.
shipments are increasing. And the domestic industry as a
whole is doing well financially.

And the largest of its members, the largest
members, are bullish about the future because of increased
demand, because of increased supply. Increased supply of their timber here in the United States. And they're bullish about it because there's a decline that they see in Canada.

I submit to you that it is important that 10 of the top U.S. suppliers are not here today. This is like U.S. Steel, Arcelor-Mittal, and Nucor not showing up for a staff conference. They're not here because their data shows something completely different from what you've heard from the U.S. industry today. Thank you.

MS. HAINES: Thank you. On behalf of the Commission and the staff, I would like to thank the witnesses who came here today, as well as counsel for helping us gain a better understanding of the product and the conditions of competition in the softwood lumber products industry.

Before concluding, please let me mention a few dates to keep in mind. The deadline for submission of corrections to the transcript and for submission of post-conference briefs is Wednesday, December 21st.

If briefs contain business proprietary information, a public version is due on Thursday, December 22nd. The Commission has tentatively scheduled its vote on these investigations for Friday, January 6th, and it will report its determinations to the Secretary of the Department of Commerce on Monday, January 9th. The Commissioners'
opinions will be issued on Tuesday, January 17th.

Thank you all for coming. The conference is adjourned.

(Whereupon, at 3:09 p.m., Friday, December 16, 2016, the conference was adjourned.)
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HEARING DATE: 12-16-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 12-16-16

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor’s Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter’s notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Duane Rice
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Court Reporter